

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
BOARD MEETING

JOE SERNA JR., CAL EPA BUILDING
CENTRAL VALLEY AUDITORIUM
1001 I STREET, SECOND FLOOR
SACRAMENTO, CALIFORNIA

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9:43 A.M.

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

A P P E A R A N C E S

BOARD MEMBERS PRESENT:

LINDA MOULTON-PATTERSON, Chair
JOSE MEDINA, Vice Chair
STEVEN R. JONES
MICHAEL PAPARIAN
CHERYL PEACE
CARL WASHINGTON

STAFF PRESENT:

MARK LEARY, Executive Director
JULIE NAUMAN, Chief Deputy Director
KATHRYN TOBIAS, Chief Legal Counsel
DEBORAH MCKEE, Board Assistant
SHARON WADDELL, Board Secretary
EDNA WALZ, Office of Attorney General

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P R O C E E D I N G S

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BOARD CHAIR MOULTON-PATTERSON: Good morning
and welcome to our Board meeting.

Would the secretary, first of all, please call
the roll?

BOARD SECRETARY WADDELL: Jones?

BOARD MEMBER JONES: Here.

BOARD SECRETARY WADDELL: Medina?

BOARD MEMBER MEDINA: Here.

BOARD SECRETARY WADDELL: Paparian?

BOARD MEMBER PAPARIAN: Here.

BOARD SECRETARY WADDELL: Peace?

(Not present.)

BOARD SECRETARY WADDELL: Washington?

(Not present.)

BOARD SECRETARY WADDELL: Moulton-Patterson?

BOARD CHAIR MOULTON-PATTERSON: Thank you. I
believe Ms. Peace and Mr. Washington will be down
momentarily, but we'll go ahead and get started.

You know, first of all I would just like to say
that we have some very important issues before us over
the next two days. But as everybody I'm sure feels,
they all pale in comparison to what's happening in the
world. And our thoughts are with the armed forces and

1 the people of Iraq. And we pray for an early resolution
2 to this conflict.

3 So if you'd now stand and join me in the pledge
4 of allegiance I would appreciate it.

5 (Thereupon the Pledge of Allegiance was
6 recited.)

7 BOARD CHAIR MOULTON-PATTERSON: Thank you. I'd
8 like to remind everyone to please turn off cell phones
9 and pagers.

10 We continue to conserve energy, and so we
11 provide a limited number of agendas in the back of the
12 room.

13 If you'd like to speak to an agenda item,
14 please fill out a speaker slip with the item number and
15 give it to Ms. Waddell who usually sits down there, but
16 this is Ms. Waddell, and we would be happy to hear you
17 speak.

18 Mr. Jones, I will start with you with
19 ex-parte. Do you have any ex-parte that you haven't
20 written up?

21 BOARD MEMBER JONES: I have a question for our
22 counsel. We got copies of an ex-parte that was
23 registered with Linda Moulton-Patterson, do I need to
24 read all these in?

25 CHIEF LEGAL COUNSEL TOBIAS: Is it a -- I don't

1 know what it is, can I come up and look at it?

2 BOARD MEMBER JONES: It's about thirty names.

3 CHIEF LEGAL COUNSEL TOBIAS: And is it a --

4 BOARD MEMBER JONES: It's all on Bradley. It
5 was the stuff that you had sent.

6 BOARD CHAIR MOULTON-PATTERSON: I ex-parted it.

7 BOARD MEMBER JONES: So that's good for all of
8 us, right?

9 CHIEF LEGAL COUNSEL TOBIAS: If the Chair has
10 ex-parted, then that's fine for all of us.

11 BOARD MEMBER JONES: That's fine for all of us.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
13 Jones.

14 BOARD MEMBER JONES: Then just hello to Mr.
15 Cupps, Mohajer, and Aprea.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you.
17 Mr. Medina.

18 BOARD MEMBER MEDINA: Just the same parties
19 that addressed the letter to the Chair, and I received a
20 copy of all that correspondence.

21 BOARD CHAIR MOULTON-PATTERSON: Thank.

22 You. Mr. Paparian.

23 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

24 I think we may have gotten some additional
25 Bradley letters this morning, and just to be on the safe

1 side I'd like to just read those names into the record.

2 This was all letters from these individuals,
3 Marion Flatt, F-L-A-T-T. An additional person with the
4 last name of Flatt, F-L-A-T-T, which I can't read the
5 first name. Jerry Piro, P-I-R-O. Jose Lopez. Rita
6 Sanchez. Carol Sanchez. Maria Sooy, S-O-O-Y. William
7 Griggs, G-R-I-G-G-S. Virginia Beck. Robert Barker.
8 And Carmen Padilla.

9 And again, I believe those are in addition to
10 correspondence which you had previously and that we all
11 received copies of this this morning.

12 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
13 you very much for ex-parteing those, Mr. Paparian.

14 Please let the record reflect that Ms. Peace
15 and Ms. Washington are here.

16 And Ms. Peace, do you have any ex-partes?

17 BOARD MEMBER PEACE: No, my ex partes are up to
18 date. But I also do have the letter regarding, all the
19 letters regarding the Bradley Landfill that you've
20 already mentioned.

21 BOARD CHAIR MOULTON-PATTERSON: Okay, great.
22 Thank you.

23 Mr. Washington.

24 BOARD MEMBER WASHINGTON: Yes, Madam Chair. I
25 just spoke with Mark Aprea about the C&D regs, and also

1 I'd like to ex-parte the list of letters on the Bradley
2 landfill that you received.

3 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
4 you. And I'm up to date with the exception of on
5 Saturday I spoke briefly about the Board to Treasurer
6 Phil Angelides, Attorney General Lockyear, Senator
7 Torlekson, Speaker Wesson, and Assemblymember Pavley.
8 And that brings me up to date.

9 At this time we'll go to reports from Board
10 members.

11 Do you have a report this morning, Mr. Jones?

12 BOARD MEMBER JONES: No, Madam Chair.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you. Ms.
14 Peace, would you like to report on anything?

15 BOARD MEMBER PEACE: Yes. Yes. On February
16 13th I toured the Bradley Landfill, attended the Bradley
17 hearing.

18 On February 14th I toured the Sunshine Canyon
19 landfill.

20 February 18th I toured the Etco Transfer
21 Station down in San Diego.

22 On the 19th I toured the Otay and Sycamore
23 Landfills in the San Diego area.

24 On March 13th I toured a couple of the legacy
25 tire sites in Sonoma, the Silacci and the Beebe Family

1 Ranch.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you.

3 Mr. Medina.

4 BOARD MEMBER MEDINA: Thank you, Madam Chair.

5 On March the 12th I met with Assemblywoman Sarah Reyes.
6 She related her concerns to me about the equipment fire,
7 and also informed me of a bill, Assembly Bill 240, that
8 she is introducing to address similar situations.

9 On March the 13th I had an opportunity, along
10 with Board member Sheryl Peace and Board member Carl
11 Washington to visit the Sonoma tire sites. So we had an
12 opportunity to observe firsthand the dimension of that
13 particular problem and the complications involved in
14 addressing their removal.

15 And so all in all I found the discussions with
16 the property owners and the representatives from local
17 government to be very, very informative and very
18 helpful.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
20 Medina.

21 Mr. Paparian.

22 BOARD MEMBER PAPARIAN: Thank you, Madam
23 Chair. I wanted to again thank all of the Permitting
24 and Enforcement Committee members as well as the chair
25 who attended the Bradley workshop that we held on

1 February 13th.

2 I also want to especially thank our IT
3 department for their commitment to broadcasting the
4 workshop over the Internet. Bob Davila and Gary AK took
5 a tremendous amount of time and energy from their busy
6 schedules to ensure that we could provide Internet
7 access to all of those who wanted it. I think it was an
8 important workshop and it showed the Board's commitment
9 to providing access to public meetings.

10 I do have some more things to say about
11 Bradley, but I'll hold those back until we get to that
12 item tomorrow afternoon.

13 On February 27th I spoke to the California
14 District Attorney's Association, Waste Tire Enforcement
15 Conference. I'd like to thank the staff who helped put
16 together my -- I gave the opening speech to that event,
17 and several people helped put that material together for
18 me; and Deb Orrill from the public affairs office as
19 well as Don Dyer and Bob Fujii from the tire program.

20 The conference was co-sponsored by the Board.
21 It focused on a number of issues that are critical to
22 the Board, including environmental justice and waste
23 tire issues, border issues related to waste tires, and
24 general waste tire enforcement issues.

25 I learned a lot from the conference. I think

1 that there are some interesting ideas that emerged from
2 the conference that hopefully we'll be able to
3 incorporate into the five year plan during our process
4 that's going on with Mr. Medina's Special Waste
5 Committee.

6 On March 3rd I attended a meeting with a
7 variety of folks on the UC Davis campus looking at the
8 potential for development of a research relationship
9 with them. I wanted to thank Howard Levenson, Don Dyer,
10 and Stacey Patenaude for taking the time to accompany me
11 to this meeting.

12 I think that we learned a lot about some of the
13 potential for a research relationship that might be
14 beneficial to all of our programs throughout the Board,
15 and I think Mr. Levenson is following up in some
16 discussions with the UC Davis folks.

17 I'm continuing to work with Secretary Hickox
18 and Cal EPA on the development of E-waste related
19 proposals to assist the Governor in his response to
20 E-waste legislation this year.

21 And then finally, I wanted to mention the
22 building environmental management system project. I
23 mentioned this a few times before, but I wanted to
24 especially single out this month T.J. and Susan Villa
25 for their help in working with other BDO's in helping to

1 move them towards a real commitment on environmentally
2 preferred purchasing that I think will have a pretty
3 important impact throughout the BDO's in Cal EPA.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
5 Paparian.

6 Mr. Washington.

7 BOARD MEMBER WASHINGTON: Thank you, Madam
8 Chair.

9 February 13th I attended the Bradley Landfill
10 workshop. And as many of you know, I too will save my
11 comments for the appropriate time to talk about the
12 Bradley Landfill issues.

13 February 14th I met the Los Angeles City
14 Environmental Affairs Department, a meet and greet with
15 the director along with the city's LEA and some of the
16 Los Angeles area regional agency folks who are putting
17 together a task force or committee in the Los Angeles
18 regional area.

19 February 21st I met, I visited the Greenman's
20 Technology in Azusa facilities out in Azusa, California.

21 On February 24th I attended the C&D workshops
22 in Diamond Bar. And I want to thank staff, they did an
23 excellent job. I was there from the Board, along with
24 your advisor Bonnie Bruce.

25 And some pretty good information and

1 discussions were pretty well taken in terms of the
2 discussions about C&D regs.

3 On February 26th I attended the workshop with
4 the Board. It was absolutely great to see the staff
5 along with the Board members. And we did have the
6 public there. All talking about where the Board should
7 be going, and how we should be moving in this new 21st
8 century. So that was a great, as a new Board member
9 that was great to see that take place.

10 February 27th I was out in Stockton at the
11 co-generation plant site.

12 March 3rd I attended the, I visited the Puente
13 Hills landfill.

14 March 5th I was in Riverside, California at the
15 U.S. Rubber Recycling Company.

16 March 6th I visited the Sunshine Canyon
17 Landfill in Asilomar, California.

18 March 7th I participated in the Special Waste
19 workshop which again was an excellent opportunity.

20 And then March 13th, along with my colleagues
21 Ms. Peace and Mr. Medina, went out and visited the
22 Sonoma tire site.

23 BOARD CHAIR MOULTON-PATTERSON: You've been
24 busy.

25 BOARD MEMBER WASHINGTON: Yeah.

1 BOARD CHAIR MOULTON-PATTERSON: Great. Okay.

2 Thank you. Was that it, Mr. Washington, for now?

3 BOARD MEMBER WASHINGTON: Yeah.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you. And
5 many of the activities that I participated in have
6 already been covered.

7 So I just want to say again thank you to staff
8 and to the Board members for attending our
9 communications workshop. I thought it was very, very
10 well worthwhile, and I think we made some great progress
11 with the exec staff, our advisors, and the Board members
12 working together on things that are important to us all.

13 I also want to thank, over the last it's, I
14 guess almost four years, I've been meeting informally
15 with different divisions at little brown bag lunches,
16 and we've split up the staff into small, small
17 departments. We're almost through, I think we have one
18 more.

19 And I just want to thank you so much. It's
20 been a wonderful opportunity to get to know you and to
21 find out about you personally, and to find out even more
22 about what your department does. And I just want to
23 thank everybody that has participated for coming and
24 having lunch with me, I really appreciate it.

25 And lastly, I want to thank whoever is

1 responsible, I have this new screen that I've been
2 talking about for the last couple of years. And Ruben,
3 if you're in there, or whoever helped Deb and everyone
4 get it together, I appreciate it very much.

5 I feel very strongly that I don't want my head
6 on a swivel, and I feel like I've been going like this,
7 like this, and I still haven't been fair to some members
8 as far as who wants to speak in what order. So this
9 will let me know who was the first to ask to speak, and
10 to really treat each Board member fairly.

11 And so thank you for that.

12 With that I will turn it over -- oh, I might
13 mention that at 11:30 past Board member Sal Cannella
14 will be here with us to receive his resolution, and
15 we're really excited to see Sal.

16 And with that I'll turn it over to Mr. Leary
17 for his report.

18 EXECUTIVE DIRECTOR LEARY: Thank you, Madam
19 Chair.

20 A last minute addition to your dais light
21 system, we'll also add three lights over here so Julie
22 and Kathryn and I will be able to click in and get your
23 attention too so we can speak. Because, as you know,
24 it's kind of uncomfortable as we holler over here in
25 left field.

1 Anyway, I have two items for the Board to
2 report on today. One is regarding an emergency waiver,
3 and the second is developments that are about to occur
4 in regards to the regulation of Clopyralid.

5 Firstly, on February 20th of this year the
6 local enforcement agency of San Bernardino County
7 received a request and granted an emergency waiver to
8 increase the permitted tonnage at Heaps Peak transfer
9 station near Lake Arrowhead.

10 The station is receiving excess amounts of wood
11 waste as a consequence of dead and dying trees that have
12 been weakened by drought, and infected by the
13 infestation of bark beetles.

14 The San Bernardino County Board of Supervisors
15 issued a proclamation of a local emergency for the San
16 Bernardino mountains on September 24th, 2002.

17 Then on March 7th, Governor Davis proclaimed a
18 state of emergency in Riverside, San Bernardino, and San
19 Diego counties related to this problem.

20 Diversion programs at the transfer station
21 include offering the wood waste to residents for
22 firewood, and to private contractors for off-site
23 shipping and grinding.

24 The waiver is requested until midnight, June
25 19th, 2003. It may be extended if the conditions

1 continue, or rescinded if evidence shows that the waiver
2 is no longer necessary.

3 And as the members know, our regulations
4 provide that I have some powers and responsibilities in
5 regards to emergency waivers, and that I may condition
6 limits to spend or terminate the operator's use of the
7 waiver if it is determined that the use of the waiver
8 could harm public health, safety, or the environment.

9 Although I'm not choosing to exercise any of
10 those powers, and I'm comfortable in granting the
11 waiver, I would like to ask our deputy, our Acting
12 Deputy Director for Permitting and Enforcement, Scott
13 Walker, to work with the LEA in regards to this
14 emergency waiver to ensure that the exceedances of their
15 permitted tonnage is solely related to this emergency
16 waiver and not any others.

17 And I'm concerned because of the extended
18 period of the granting of the waiver, all the way into
19 June, that we want to keep an eye on that facility to
20 make sure that if the tonnage is exceeded, it is solely
21 related to the wood waste and the bark beetle
22 infestation.

23 So if there aren't any questions, I'll go to my
24 agenda item two which is a discussion of Clopyralid.

25 I'd like to update you on what's happening in

1 regards to this persistent herbicide that's used to
2 control weeds on lawns and agricultural range land
3 settings.

4 The Department of Pesticide Regulation will be
5 making a major determination about Clopyralid use on or
6 by April 1st as required by Assembly Bill 2356 signed
7 into legislation -- or signed into statute last year.
8 And I want you to be aware of this, and its potential
9 implications for waste diversion programs.

10 As you know, the Clopyralid use has been a
11 worry to us since late 2001 when we learned that
12 commercial compost with Clopyralid residues had affected
13 garden and nursery plants in Washington.

14 Testing by California composters in early 2002
15 revealed residues in two-thirds of their limited
16 samples. Clearly, anything that affects, that might
17 affect the market demand for compost is of concern to us
18 in the green waste diversion efforts that we're hoping
19 to implement as a result of the Integrated Waste
20 Management Act.

21 Since then we've been working with the
22 Department of Pesticide Regulation on this issue,
23 including holding four stakeholder meetings in 2001,
24 2002, and one as recently as last Friday.

25 In March of 2002, DPR canceled the use of

1 Clopyralid herbicides on residential lawn and turf.

2 This important decision by DPR was welcomed by the
3 composting industry and local government in California.

4 But at the same time, the composters were still
5 concerned that Clopyralid might be getting into
6 feedstocks from grass clippings collected from
7 commercial lands and turf.

8 They sponsored Assembly Bill 2356 which was
9 passed last year and requires DPR to determine, by April
10 1st, whether additional lawn and turf uses need to be
11 restricted or canceled.

12 DPR will make this determination based on
13 various information sources, including data from the
14 composting industry on the second round of testing, from
15 the ongoing Board sponsored survey of the composting
16 industry, from Dow who sponsored research on the effects
17 of compost containing Clopyralid on different plants,
18 and from other sources. This information was the
19 subject of that stakeholders meeting that was held last
20 Friday.

21 I anticipate there will be a fair amount of
22 public response and attention focused on DPR's April 1st
23 determination, so I plan to provide you with more
24 details on this situation by memo next week.

25 And Madam Chair, that concludes my Executive

1 Director's report.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
3 Leary.

4 Any questions for Mr. Leary?

5 Seeing none, we'll go over the agenda very
6 briefly. Item 7, 11, 19, 53, and 54 have been pulled
7 from the agenda. That was 7, 11, 19, 53, and 54.

8 Items 24, 25, 33, 34, and 35 were heard at the
9 committee level only. That was 24, 25, 33, 34, and 35
10 at the committee level only.

11 And before I go into the ones that are proposed
12 for the consent calendar, I would like to mention that
13 the Board will be holding a closed session at 9:30
14 tomorrow morning, and then we'll hear the Bradley item
15 at 1:30 tomorrow, is that correct? Okay.

16 Items 2 revised, 4, 10, 12 through 18, 20, 26,
17 30, 36 through 46, 47 revised, 48 through 52, and 55
18 through 65 have been proposed for the consent agenda as
19 I understand.

20 Did I get 'em right?

21 BOARD SECRETARY WADDELL: We have a speaker on
22 number four.

23 BOARD CHAIR MOULTON-PATTERSON: Excuse me?

24 MS. WADDELL: We have a speaker for number
25 four.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
2 Waddell.

3 So will we pull it or, yeah, we'll pull it. We
4 have a speaker from the public, Mr. Mike Mohajer wants
5 to speak on item number four, so we will take that off
6 the proposed consent calendar.

7 Does any member wish to pull an item?

8 If not, I'll entertain a motion.

9 BOARD MEMBER WASHINGTON: Madam Chair.

10 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr.
11 Washington.

12 BOARD MEMBER WASHINGTON: I'll move adoption of
13 the consent calendar with the exception of item four
14 which is being pulled from the consent calendar.

15 BOARD MEMBER JONES: Second.

16 BOARD CHAIR MOULTON-PATTERSON: We have a
17 motion by Mr. Washington, seconded by Mr. Jones to
18 approve, I will read them one more time: 2 revised, 3,
19 10, 12 through 18, 20, 26, 30, 36 through 46, 47
20 revised, 48 through 52, and 55 through 65.

21 So please call the roll for the consent
22 calendar.

23 BOARD SECRETARY WADDELL: Jones.

24 BOARD MEMBER JONES: Hang on just a second.
25 You had read three and three's not a part of this.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
2 Jones for catching that. 3 is not on the consent. I
3 wanted to make sure I didn't call number 4, and I called
4 number 3. Thank you very much.

5 Okay. So let the record show that correction.
6 Please call the roll.

7 BOARD SECRETARY WADDELL: Jones?

8 BOARD MEMBER JONES: Aye.

9 BOARD SECRETARY WADDELL: Medina?

10 BOARD MEMBER MEDINA: Aye.

11 BOARD SECRETARY WADDELL: Paparian?

12 BOARD MEMBER PAPARIAN: Aye.

13 BOARD SECRETARY WADDELL: Peace?

14 BOARD MEMBER PEACE: Aye.

15 BOARD SECRETARY WADDELL: Washington?

16 BOARD MEMBER WASHINGTON: Aye.

17 BOARD SECRETARY WADDELL: Moulton-Patterson?

18 BOARD CHAIR MOULTON-PATTERSON: Thank you,
19 aye.

20 Okay. The consent calendar has been approved,
21 and now we will, well I'll call on Mr. Medina, we're
22 going to be going to Special Waste.

23 And Mr. Medina, as chair of that committee,
24 would you please give your report?

25 BOARD MEMBER MEDINA: Thank you, Madam Chair.

1 First, I'd like to report that on March the 7th
2 we held a special meeting for the purposes of finalizing
3 the five year tire plan for fiscal year 2003-2004. The
4 Board's expenditure authority is \$31,800,000, as it is
5 for fiscal year 2004-2005.

6 There were three areas that needed to be
7 addressed and resolved. The budget, the text of the
8 plan, and the performance measures.

9 We made good headway on the budget, taking care
10 of years 03-04 and 04-05.

11 In order to give the process a fair
12 consideration, the first action was to vote on the
13 essential tire programs that were identified by staff.
14 By doing this the core programs would be protected,
15 leaving the remaining money to be divided between
16 research markets and the Kuehl bill, which was dependent
17 on the amount allotted for markets.

18 The essential programs identified by staff are
19 enforcement, cleanup, hauler manifest, mandatory
20 contracts and administration totalling \$20,455,000. The
21 committee voted on this action by a three to one vote
22 approving 20,455,000 for the essential programs.

23 That left a remaining 11,345,000 for research
24 and markets.

25 The committee had numerous requests for

1 research and markets. One of the requests was received
2 from Brent Felker, chief engineer at Caltrans, for \$1.7
3 million to fund RAC activities. Caltrans itself would
4 be matching with \$7 million.

5 The Kuehl bill was funded in the amount of
6 \$1,100,000 for 03-04, and 1,100,000 for 04-05, with some
7 money that's left over that will be reallocated to the
8 Kuehl bill.

9 Areas that received funding for research were
10 increasing the use of recycled content, increased tire
11 life span, pyrolysis, gasification, liquefaction, energy
12 recovery, civil engineering, and health effects of tire
13 fires on responding personnel.

14 The committee also voted to fund a request from
15 the Department of General Services on research of using
16 recycled rubber products.

17 In the area of market development, the
18 committee voted to approve funding for outreach
19 information on the care of tires, grants for sustainable
20 buildings, the RMDZ program, tire database. Funding was
21 also approved for a buy recycled certification audit.

22 The committee's discussion on the budget took
23 all day. We still have to vote on the outer years of
24 the budget, the text and the performance measures. As
25 such, there will be a special workshop on March the 24th

1 to continue the development of the tire recycling
2 management plan. And if necessary, a subsequent meeting
3 will be scheduled as needed.

4 On March the 10th the committee met, the
5 Special Waste Committee met at its regular meeting and
6 the following is what occurred:

7 Items that received fiscal consensus are item
8 one, track grants; item five, evaluation of RAC centers;
9 item eight and nine, RMDZ loans.

10 The committee voted to move the following items
11 on the consent calendar: Item two, scoring criteria for
12 amnesty day grants; item four, household hazardous grant
13 criteria; 10, 12, 13, 15, 16, renewal of RMDZ
14 designations; 17, scope of work for marketing; 18,
15 compliance agreements for various companies; and 20,
16 environmental task force.

17 Item seven was pulled. This was an item on the
18 five year tire plan that was not necessary as the
19 committee is having a special workshop on the subject.

20 Item 19, emergency regulations to assess
21 penalties for rigid plastic packaging containers has
22 been rescheduled.

23 Item 16, tire hauler registration and manifest
24 regulations will be heard by the entire Board.

25 That concludes my report from the Special

1 Waste, Market Development Committee.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
3 Medina.

4 And I'll now call on Mr. Lee, and I believe
5 we're going to go right to number one, is that right?

6 MR. LEE: Thank you, Madam Chair. Yes, that is
7 correct.

8 Again good morning, Madam Chair and members of
9 the Board. Item one -- first though, my name is Jim
10 Lee, I'm with the Special Waste Division.

11 Item one is consideration of the grant awards
12 for the waste tire track and other recreational
13 surfacing grant programs for fiscal year 2002-2003.
14 This item was recommended for consent by the Special
15 Waste and Market Development and Budget and
16 Administration Committees.

17 Staff recommend that the Board approve
18 Resolution 2003-146.

19 BOARD MEMBER MEDINA: I'd like to move -- Madam
20 Chair, I'd like to move this item.

21 BOARD MEMBER PEACE: Second.

22 BOARD CHAIR MOULTON-PATTERSON: We have a
23 motion by Mr. Medina to approve this motion, seconded by
24 Ms. Peace to approve Resolution 2003-146.

25 Please call the roll.

1 BOARD SECRETARY WADDELL: Jones?

2 BOARD MEMBER JONES: Aye.

3 BOARD SECRETARY WADDELL: Medina?

4 BOARD MEMBER MEDINA: Aye.

5 BOARD SECRETARY WADDELL: Paparian?

6 BOARD MEMBER PAPARIAN: Aye.

7 BOARD SECRETARY WADDELL: Peace?

8 BOARD MEMBER PEACE: Aye.

9 BOARD SECRETARY WADDELL: Washington?

10 BOARD MEMBER WASHINGTON: Aye.

11 BOARD SECRETARY WADDELL: Moulton-Patterson?

12 BOARD CHAIR MOULTON-PATTERSON: Aye.

13 Okay, number three.

14 MR. LEE: Item three, consideration of the
15 grant awards for the waste tire enforcement grant
16 programs for fiscal year 2002-2003.

17 At the presentation before the Special Waste
18 and Market Development Committee, staff brought to the
19 committee's attention an inadvertent oversight relative
20 to the permit checklist requirement for potential
21 grantees.

22 Specifically, it was staff's intent to request
23 a waiver of the permit checklist, but this request was
24 not reflected in the agenda item or the resolution.

25 We discussed with the Special Waste Committee a

1 plan to bring back before the Budget and Admin Committee
2 and the full Board a revised resolution requesting this
3 exclusion as part of the overall grant award.

4 Because of the unresolved nature of this permit
5 checklist issue, the Special Waste Committee recommended
6 this item be held over for discussion before the full
7 Board.

8 After some additional discussions with the
9 legal staff, it was determined that noticing
10 requirements would not be met under staff's proposal,
11 therefore, staff dropped its proposal to revise the
12 resolution. Staff so advised the budget committee, and
13 received their support for the resolution as originally
14 proposed.

15 It is now staff's intent to bring a separate,
16 narrowly defined agenda item and resolution forward next
17 month specifically to request an exemption from the
18 permit requirements for the applicants receiving the
19 waste tire enforcement grants.

20 Therefore, staff is requesting the Board's
21 approval of the original grant award resolution. Staff
22 is prepared to make a brief presentation, if necessary,
23 otherwise staff recommends the Board approve Resolution
24 2003-149.

25 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

1 BOARD MEMBER MEDINA: Thank you, Madam Chair.

2 I would like to move Resolution number
3 2003-149.

4 BOARD CHAIR MOULTON-PATTERSON: Ms. Peace has a
5 question.

6 BOARD MEMBER PEACE: I have a question. It
7 says here that you're going to pass this to ensure a
8 stable source of funding without the need for annual
9 application, is that correct?

10 I'm just wondering, how is this program
11 evaluated? How do we know -- I mean this goes on
12 forever, do we have an evaluation process in there to
13 make sure that this program is working?

14 MR. LEE: We will be establishing an evaluation
15 program. Basically we have, the reason we got as many
16 of the jurisdictions to come aboard this time is because
17 of the expectation that, you know, funding, a stable
18 source of funding will be available in the future years.

19 But we realize as part and parcel of that that
20 we need to again conduct an ongoing evaluation of these
21 programs again to make sure that the money is being well
22 spent and that, you know, perhaps first year costs of
23 establishing the programs, you know, obviously we would
24 expect to diminish in future years.

25 So we will be looking at these individual

1 jurisdictions in subsequent years, again to make sure
2 that the monies that, you know, that they will be
3 requesting are appropriate.

4 BOARD MEMBER PEACE: Thank you.

5 BOARD CHAIR MOULTON-PATTERSON: Okay. I'll go
6 ahead and second that so we have the motion moved and
7 seconded.

8 And Mr. Paparian.

9 BOARD MEMBER PAPARIAN: Yeah. At the Special
10 Waste Committee meeting on this item, just to follow up
11 on Mrs. Peace's question, I suggested that it might be
12 good to get an overall sense of the whole enforcement
13 effort.

14 And I'm not sure if that would be something
15 that would come to the Special Waste Committee or not.
16 Mr. Medina and I have not really had a chance to really
17 talk about that. But we do have six entities involved
18 in the enforcement of tires. We've got the tire staff,
19 district attorney's association, the legal office, local
20 governments, the Highway Patrol, and the Attorney
21 General's office.

22 And that's in no way to say that there's
23 anything wrong going on there or anything like that, but
24 just for myself I'm hoping to get a better handle on how
25 that all interrelates and how it works.

1 And again, I haven't had a chance to follow up
2 with Mr. Medina to see whether he would want to do that
3 as part of the Special Waste Committee or whether I
4 might just do that individually with the staff.

5 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
6 you.

7 We have a motion by Mr. Medina seconded by
8 Moulton-Patterson to approve Resolution 2003-149
9 Revised.

10 Without objection we'll substitute the previous
11 roll call.

12 And this brings us to number four, Mr. Lee.

13 MR. LEE: Yes, thank you, Madam Chair.

14 Item four is consideration of the scoring
15 criteria and evaluation process for the fiscal year
16 2003-2004 household hazardous waste grants.

17 This item was heard both before the Special
18 Waste and Market Development Committees and the Budget
19 and Admin, excuse me, just with the Special Waste
20 Committee, and was recommended for consent.

21 I understand that we have a member of the
22 public that wishes to speak on this.

23 Staff is prepared to make a short Board
24 presentation if desired, or we can go directly to the
25 comment and respond to that.

1 What is the Board's pleasure?

2 BOARD CHAIR MOULTON-PATTERSON: I think we'll
3 hear from Mr. Mohajer, and then if we need
4 clarification.

5 So Mike Mohajer, Los Angeles County Department
6 of Public Works.

7 Good morning, Mr. Mohajer.

8 MR. MOHAJER: Good morning, Madam Chair, member
9 of the Board. For the record my name is Mike Mohajer,
10 Los Angeles County Department of Public Works.

11 Madam Chair, first I apologize for not being
12 able to attend the Special Waste Committee. But having
13 said that, on behalf of the L.A. County, we do have a
14 problem with the staff recommendation in reference to
15 eliminating the geographic distribution of funds.

16 As you may recall, this was one of the issues
17 that we, on behalf of the L.A. County, we raised back
18 about several years ago when Senator Roberti was on the
19 Board. The recommendation was adopted for geographical
20 distribution of the fund.

21 And basically the problem is that the staff,
22 the staff recommendation to eliminate that.

23 To further justify the L.A. County position
24 looking, at even the staff recommendation, on page one
25 it very specifically says that,

1 "Household hazardous waste
2 grants are competitive grants
3 designed to support local government
4 agency's efforts to reduce the
5 amount of household hazardous waste
6 disposed at a solid waste landfill."

7 And going back on page six in, terms of the
8 long term potential impact,

9 "The goal of the household
10 hazardous waste program is to divert
11 all household hazardous waste
12 generated in California from
13 landfill disposal."

14 Having said that, most of the waste that is
15 being generated in Southern California, and specifically
16 the County of Los Angeles, one-third of the waste is
17 being generated that is being disposed in the State of
18 California is being generated in the County of Los
19 Angeles.

20 And eliminating that 40/60 percent distribution
21 is to the detriment of the County of Los Angeles. And
22 also considering the fact that the funding of this
23 program comes from the solid waste management account
24 which is based on the \$1.43 that the Waste Board, that
25 funds the program.

1 L.A. County over the past, since 1995, we've
2 been disposing pretty much consistently about twelve
3 million tons a year. So that is approximately 16, \$17
4 million a year. And eliminating that criteria of 40/60
5 distribution is really, as I said for the third, fourth
6 time, is harmless to the County of Los Angeles.

7 So on behalf of the county I'm recommending
8 that your Board either adopt option two which would be
9 modify the scoring criteria providing going back to your
10 old policy of the 60/40 percent distribution.

11 Or option three, directing staff to go back and
12 modify the proposal which would provide for geographical
13 distribution.

14 Thank you.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
16 Mohajer. I wasn't at this meeting, and I very much
17 appreciate you bringing this up, because you know how I
18 feel about this issue.

19 Mr. Washington.

20 BOARD MEMBER WASHINGTON: Thank you. Now, so I
21 can understand, Mike, what's going on here. Tell me
22 what's happening here that you see is a problem for L.A.
23 County. We know L.A. County is a huge county.

24 MR. MOHAJER: That's correct.

25 BOARD MEMBER WASHINGTON: And I'm a county

1 baby, so tell me where you, what's happening here that
2 you're trying to accomplish.

3 MR. MOHAJER: Well the staff recommendation
4 basically recommend the money to be, they have provided
5 a scoring benefit to the small county and unpopulated
6 jurisdictions. But the goal of the program is to divert
7 waste from going to disposal facilities, and that is how
8 the money is being generated.

9 So most of the hazardous waste that we want to
10 divert from the landfills are being generated in the
11 metropolitan area where the populations are. And that
12 is what the problem has been, and I raised the issue
13 several years ago, and as a result this policy was
14 adopted.

15 BOARD MEMBER WASHINGTON: So the scoring, the
16 scoring is the problem here?

17 MR. MOHAJER: The scoring is not a problem, but
18 the way the money will be distributed will be a problem.
19 As it stands right now, based on the existing Board
20 policy, forty percent of the allocated fund, which is \$3
21 million.

22 And what is bad about it this time is also
23 adding one and a half million dollars for the E-waste,
24 which makes it four and a half million dollars.
25 And jurisdictions in the metropolitan area are not going

1 to be measured evenly with the smaller jurisdictions
2 that are less populated.

3 BOARD MEMBER WASHINGTON: Okay. Can staff --
4 yeah.

5 BOARD CHAIR MOULTON-PATTERSON: Ms. Willd-
6 Wagner.

7 MS. WILLD-WAGNER: Good morning, chairperson
8 and Board members. I'm Shirley Willd-Wagner of the
9 Special Waste Division, Used Oil and Household Hazardous
10 Waste Branch.

11 I do understand exactly what Mr. Mohajer is
12 denoting here. But one difference is that in the
13 requirements, these are statutory requirements, these
14 were not staff recommendations.

15 Public Resources Code Section 47200 requires
16 the Board to,

17 "Give preference to rural
18 areas, small cities, and/or
19 underserved populations, as well as
20 preference to regional,
21 multijurisdictional applicants."

22 Now, the County of Los Angeles, the way we've
23 defined underserved populations and even small cities,
24 well not the county but some of the cities within the
25 County of Los Angeles could qualify for points under

1 those definitions.

2 Underserved populations basically we've defined
3 as an environmental justice issue. Those that are in
4 comparison to similar socioeconomic and population
5 statuses that don't have as much access to household
6 hazardous waste collection opportunities.

7 So that's why there are some points there,
8 eight points in the proposed criteria, but they are
9 statutory criteria.

10 The other thing I just wanted to mention is
11 that the reason that the staff recommended not going
12 with the north south split, as has been done in some
13 other programs, is those statutory requirements, is
14 what's written out in statute.

15 And we could consider certainly and apply that
16 after the scoring is done if that is your wish, either
17 way.

18 BOARD CHAIR MOULTON-PATTERSON: Okay. Just
19 very briefly. I mean I understand the point about the
20 rural, but there's certainly a lot of underserved
21 communities in Southern California.

22 And just for my new Board members, what had
23 happened here, and it is nobody's fault, I don't think
24 it was intentional, but whether it be through outreach
25 or what, just overall the grants seemed to have, to

1 Senator Roberti and myself, a Northern California bias.

2 And like I said, it wasn't intentional, it
3 wasn't anything, you know, that anybody did, but we just
4 really wanted to clear that up.

5 And to read here that, you know -- first of all
6 the notes say, "At the November, 2001 Board meeting, the
7 Board approved the concept of a geographical
8 distribution of grant funds." And then staff recommends
9 against this because, one of their reasons is, "In the
10 past the Board has awarded the HHW grants based on the
11 highest ranking application scores regardless of
12 location of the projects."

13 Well it sounds like they're just trying to get
14 around what the Board did. And so I am concerned about
15 this.

16 And Mr. Lee, do you have anything to add? I
17 really think it's important that, you know, we're
18 located in Sacramento, and now with the budget
19 constraints we're not going down to Southern California
20 for our Board meetings, which I don't know if it's a
21 good idea or not because we are a statewide Board and we
22 need to serve this entire state.

23 But because of the perception and whatever, I
24 decided to cancel the out of town Board meetings. But I
25 wanted to make sure that Southern California gets its

1 fair share. And so if you would address that?

2 MR. LEE: Yes, Madam Chair. We understand
3 yours and the Board's concern with regards to this
4 situation. But I think, as Ms. Willd-Wagner expressed,
5 we were basically responding to what we feel was, you
6 know, the statutory requirement which we, I guess in
7 some respect, feel superceded the policy concern that
8 the Board had expressed.

9 You know, that fact notwithstanding, if it's
10 the Board's desire to impose as kind of a secondary
11 level, the geographic split as kind of a secondary level
12 of consideration --

13 BOARD CHAIR MOULTON-PATTERSON: I might just
14 add, you know, Southern California is not just Los
15 Angeles County, you know, we have a lot of small cities
16 in the eastern part of Southern California. We have a
17 lot of underserved, and so I just, I don't know, I
18 really want to think about this because I'm concerned
19 about it also.

20 Mr. Medina.

21 BOARD MEMBER MEDINA: Well Madam Chair, from my
22 perspective, Northern California has gotten its share of
23 grants. From my perspective, Los Angeles and Los
24 Angeles County has gotten more than, you know, has
25 gotten its fair share of monies also.

1 So in total dollar amounts I believe that Los
2 Angeles, Los Angeles County have gotten a fair
3 distribution of the total dollars.

4 MR. MOHAJER: Madam Chair.

5 BOARD CHAIR MOULTON-PATTERSON: Historically
6 you mean, or just in this? Because I have a different
7 point of view.

8 BOARD MEMBER MEDINA: Historically. Well, and
9 that's why we represent, we look at the whole state but
10 we're also sensitive to, you know, our own areas.

11 BOARD CHAIR MOULTON-PATTERSON: Right.

12 MR. MOHAJER: I do value Mr. Medina for being
13 fair at this, that's been my experience. But also, I
14 initiated the household hazardous waste program for L.A.
15 County back in 1987, so it's been about fifteen years,
16 and we are conducting the household hazardous waste
17 program, a county-wide program including providing the
18 city of L.A. with \$2 million.

19 So being involved and running the program and
20 being the manager for the program, the amount of the
21 grant money that L.A. County, that my program received
22 county-wide is very limited, and it's going to be less
23 than a hundred thousand dollars. I don't have the
24 numbers, but it's less than a hundred thousand dollars
25 since Integrated Waste Management Act went into effect

1 in 1990.

2 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
3 you, Mr. Mohajer. I think we've, you know, I'm
4 certainly not going to vote against this because of
5 this, but in the future I really, you know, want to see
6 the geographic, what we decided at the November, 2001
7 Board meeting, the concept of geographical distribution
8 of grant program funds, you know, I really want to see
9 that carried out.

10 And I would, you know, as long as I'm on the Board I'm
11 going to question that.

12 And so thank you.

13 But with that I'll entertain a -- we have Ms.
14 Peace next.

15 BOARD MEMBER PEACE: I was just wondering, does
16 our legal staff have anything to say about how we should
17 weigh the statute requirements versus the Board policy?

18 CHIEF LEGAL COUNSEL TOBIAS: Well, I think the
19 Board has, I think the staff has presented what the
20 issue is which is that there are statutory priorities,
21 and I think it's difficult to get around statutory
22 priorities.

23 I think one of the questions is do you, does
24 staff evaluate the statutory priorities first and then
25 put a north south split on it? Do you put the north

1 south split on it first, and then do the priorities? Or
2 do we try to find the north south priorities within the
3 existing statutory priorities?

4 So maybe what the Board would, you know, like
5 to entertain is an agenda item on this that looks at
6 those kinds of issues.

7 I don't think that this needs to be in
8 regulations, which I think was one of the things that I
9 was thinking about as you were having this discussion as
10 to whether we need to address this in regulations.

11 However, sometimes the discussion that is
12 presented when you consider regulations would give the
13 Board the opportunity to hear from different
14 stakeholders and concerned citizens. It would also give
15 the opportunity to consider whether, as opposed to the
16 so-called north south split, whether it should be on a
17 per capita basis which would go along with where the
18 waste was generated and those kinds of issues.

19 So I don't think there's a legal issue that
20 would prohibit the Board from considering a north south
21 split, but I do think that it probably means that the
22 priorities that are called for in the statute probably
23 need to be considered first.

24 So I think the Board can adopt the agenda item
25 the way it's presented today, or I think if you want to

1 consider the north south split further you can do that.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you.

3 Mr. Medina.

4 BOARD MEMBER MEDINA: I was just going to move
5 the resolution.

6 BOARD CHAIR MOULTON-PATTERSON: Okay. I'll
7 take that.

8 But Mr. Leary, could you go back and have
9 someone go back through the start of the Board and just
10 kind of itemize for me -- and of course if one Board
11 member asks for something all Board members should get
12 the same information.

13 So if you could just kind of go back and give
14 me a summary of that, because I don't think it's just my
15 imagination, and I would appreciate it.

16 And I'll accept Mr. Medina's motion on this
17 Resolution 2003-148. I need a second.

18 BOARD MEMBER JONES: I'll second.

19 BOARD CHAIR MOULTON-PATTERSON: Okay. We have
20 a motion by Mr. Medina, and a second by Mr. Jones.

21 BOARD MEMBER MEDINA: Who's also from Northern
22 California.

23 BOARD CHAIR MOULTON-PATTERSON: Please call the
24 roll.

25 BOARD SECRETARY WADDELL: Jones?

1 BOARD MEMBER JONES: Aye.

2 BOARD SECRETARY WADDELL: Medina?

3 BOARD MEMBER MEDINA: Aye.

4 BOARD SECRETARY WADDELL: Paparian?

5 BOARD MEMBER PAPARIAN: Aye.

6 BOARD SECRETARY WADDELL: Peace?

7 BOARD MEMBER PEACE: Aye.

8 BOARD SECRETARY WADDELL: Washington?

9 BOARD MEMBER WASHINGTON: Aye.

10 BOARD SECRETARY WADDELL: Moulton-Patterson?

11 BOARD CHAIR MOULTON-PATTERSON: Aye.

12 Mr. Jones.

13 BOARD MEMBER JONES: Madam Chair, just a
14 question. This one particular grant, I don't think that
15 the rest of the north south split is impacted on all the
16 rest of the grant programs, I think all of the rest of
17 the grant programs have that north south split in it.

18 This is the one grant program that's there to
19 help build an infrastructure throughout the state. And
20 the water source of much of that water that goes down to
21 Southern California actually starts in Northern
22 California. And I actually am worried that a lot of
23 these, this thing was directed to get infrastructure
24 built at, you know, up north.

25 So I just hope members remember that, while if

1 Mr. Leary is going to look at all these grants I have no
2 problem with that because I'll bet you dollars to donuts
3 that the majority of the money went south. But on this
4 one it was, the legislation said go after rurals, and
5 there's rurals in the south, but to build
6 infrastructure.

7 So I just hope we make that, that this north
8 south issue not being used is for this grant program
9 only, not all the other grant programs.

10 And unless I'm misstating I'd just, we need to
11 stay focused. They're supposed to build an
12 infrastructure.

13 BOARD CHAIR MOULTON-PATTERSON: I understand
14 that. I just want to be very clear that I would not
15 want to see this just kind of, the north south on
16 anything else go under, and that was my objection.
17 Certainly, as I did, I voted for the motion. We don't
18 want to start the Civil War here again.

19 Okay, Mr. Lee.

20 MR. LEE: Item five, consideration of the
21 contractor --

22 BOARD CHAIR MOULTON-PATTERSON: Did we, did you
23 call the roll.

24 BOARD SECRETARY WADDELL: Yeah.

25 BOARD CHAIR MOULTON-PATTERSON: Yes. Thank

1 you.

2 MR. LEE: Item five is consideration of the
3 contractor for the evaluation of the Northern and
4 Southern California rubberized asphalt concrete
5 technology centers contract, tire recycling management
6 fund, fiscal year 2002-2003.

7 Staff propose that Sjoberg Evashenk Consulting,
8 LLC be awarded \$97,340 as the consultant for this
9 evaluation.

10 The item was heard by the Special Waste and
11 Market Development Committee and the Budget and Admin
12 Committees, and recommended for consent.

13 Staff recommend that the Board approve
14 Resolution 2003-147 as revised.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
16 Lee.

17 Mr. Medina.

18 BOARD MEMBER MEDINA: Madam Chair, I'd like to
19 move Resolution number 2003-147 Revised.

20 BOARD MEMBER PAPARIAN: Second.

21 BOARD CHAIR MOULTON-PATTERSON: Okay. We have
22 a motion by Mr. Medina, seconded by Mr. Paparian to
23 approve Resolution 2003-147 Revised.

24 Seeing no objections, please substitute the
25 following roll call.

1 Okay. Last item for Special Waste, number
2 six.

3 MR. LEE: Item six, consideration of adoption
4 of revisions to the existing waste tire hauler
5 registration and manifesting regulations.

6 This item was heard and recommended for consent
7 by the Special Waste and Market Development Committee.
8 However, since it is established Board policy the
9 adoption of regulations requires consideration of the
10 whole Board, the item can be presented this morning if
11 that's the Board's desire.

12 Keith Cambridge of staff is prepared to make a
13 short presentation if directed by the Board.

14 Otherwise, staff recommends approval of
15 Resolution 2003-145.

16 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina, did
17 you want to move this?

18 Oh, excuse me, we have a -- is it a question
19 by Mr. Jones.

20 BOARD MEMBER JONES: Yes, Madam Chair.

21 BOARD CHAIR MOULTON-PATTERSON: Okay, Mr.
22 Jones. I didn't look at my screen, I'm sorry.

23 BOARD MEMBER JONES: Thanks, Madam Chair.

24 One of the issues that's in these regs that I
25 know Keith Cambridge is going to answer is that the

1 existing regulations call for handwritten transcripts be
2 turned in within every ninety days.

3 The whole object of this manifest system and
4 automating it and making it responsible, putting a
5 burden on operators, generators, and everybody to get
6 this in quickly, seems to be, could be put in peril by
7 putting a ninety day delay or a ninety day window to
8 turn these in. Because they're self-addressed, they
9 fill 'em out, they fold 'em, they get mailed to us or
10 they get run through a scanner or computer.

11 And I'm wondering if we aren't doing more harm
12 than good by leaving the ninety days. And I understand
13 it's part of something that happened a long time ago,
14 but I don't know if it can be changed to a shorter
15 period of time legally.

16 MR. CAMBRIDGE: Mr. Jones, the statute calls
17 for submitting the manifests on a timely basis. Staff
18 propose on the manifest to basically, in the manual that
19 we're developing, to have the generators, transporters,
20 end use facilities submit the manifests as soon as
21 possible.

22 Aside from that, I believe it would take
23 statutory authority to change that.

24 BOARD MEMBER JONES: Okay. Can we put in a,
25 can we put in a line that says these are due in in

1 fourteen working days and no later than ninety days?

2 Does that meet the law.

3 CHIEF LEGAL COUNSEL TOBIAS: Is your question
4 is it consistent with the law, or what would happen to
5 the regulation package.

6 BOARD MEMBER JONES: Yeah, what would happen to
7 the package.

8 CHIEF LEGAL COUNSEL TOBIAS: Well, I'd need a
9 second to look at it but I think we'd probably have to
10 go out for another fifteen day, but I don't think that's
11 a problem. I don't think we're at the end of the time
12 limit, are we?

13 BOARD MEMBER JONES: I mean I don't mind if we
14 move this now, but we have to change that. That's
15 something that we didn't see when we were doing SB 876,
16 and it just nullifies all the work we've done I think on
17 the manifest system.

18 BOARD CHAIR MOULTON-PATTERSON: Thank you for
19 bringing that up, Mr. Jones.

20 Mr. Medina.

21 BOARD MEMBER MEDINA: Madam Chair, if there's
22 no issues to be resolved I would like to move Resolution
23 number 2003-145.

24 BOARD CHAIR MOULTON-PATTERSON: I'll second it.

25 BOARD MEMBER PAPARIAN: Second.

1 BOARD CHAIR MOULTON-PATTERSON: We have a
2 motion by Mr. Medina, seconded by Mr. Paparian to
3 approve Resolution 2003-145.

4 Seeing no objections, please substitute the
5 following roll call.

6 And at this time we'll take a fifteen minute
7 break -- previous roll call, not the following.

8 (Thereupon there was a discussion off the
9 record.)

10 BOARD CHAIR MOULTON-PATTERSON: I'm sorry. On
11 item number six I missed something, can you bring it
12 back? I was supposed to say happy birthday to Keith
13 Cambridge, I'm sorry.

14 Happy birthday, Keith.

15 (Thereupon there was a brief recess.)

16 BOARD CHAIR MOULTON-PATTERSON: I'd like to go
17 ahead and reconvene our meeting.

18 Mr. Jones, do you have any ex-partes.

19 BOARD MEMBER JONES: Denise Delmatier, and
20 that's it.

21 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
22 you.

23 Ms. Peace.

24 BOARD MEMBER PEACE: No, I'm up to date.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

1 I have none.

2 Mr. Medina.

3 BOARD MEMBER MEDINA: Mike Mohajer and Mark
4 Aprea on the north south split.

5 BOARD CHAIR MOULTON-PATTERSON: The Civil War,
6 okay. Thank you.

7 Mr. Paparian.

8 BOARD MEMBER PAPARIAN: None.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you.
10 Mr. Washington.

11 BOARD MEMBER WASHINGTON: I have none.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you.

13 Is Crystal here, Mr. Washington? Okay. Well,
14 I did want to introduce our executive assistant in Long
15 Beach who is available to all Board members when they're
16 visiting Southern California, and her name is Crystal
17 Risin, and when she comes in I'll point her out. She's
18 just a great addition to the staff.

19 Okay. This brings us to Waste Prevention and
20 Market Development.

21 Number eight, Ms.Wohl.

22 MS. WOHL: Good morning, Madam Chair, Board
23 members. Patty Wohl with the Waste Prevention and
24 Market Development Division.

25 Today we have two items, two loan items both on

1 fiscal consent on consensus from both the Special Waste
2 and Market Development Committee, and the Budget and
3 Admin Committee.

4 And also, the loan committee met on March 13th
5 and unanimously approved both of these loans.

6 With that, agenda item eight is consideration of the
7 recycling market development revolving loan program
8 application for Golden By-Products, Inc., dba Scrap Tire
9 Company.

10 This is a loan in the amount of \$1,375,000 from
11 the tire fund to Golden By-Products, Inc.

12 Staff recommends the Board adopt Resolution 2003-192.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you.

14 Mr. Jones.

15 BOARD MEMBER JONES: Thanks, Madam Chair. The
16 loan committee was unanimous on both of these.

17 MS. WOHL: Yes.

18 BOARD MEMBER JONES: I'll move adoption of
19 Resolution 2003-192, consideration of the recycling
20 market development revolving loan program application
21 for Golden By-Products doing business as Scrap Tire
22 Company in the amount of \$1,375,000.

23 BOARD MEMBER WASHINGTON: Second.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
25 Jones.

1 We have a motion by Mr. Jones, seconded by Mr.
2 Washington to approve Resolution 2003-192.

3 Please call the roll.

4 BOARD SECRETARY WADDELL: Jones.

5 BOARD MEMBER JONES: Aye.

6 BOARD SECRETARY WADDELL: Medina.

7 BOARD MEMBER MEDINA: Aye.

8 BOARD SECRETARY WADDELL: Paparian.

9 BOARD MEMBER PAPARIAN: Aye.

10 BOARD SECRETARY WADDELL: Peace.

11 BOARD MEMBER PEACE: Aye.

12 BOARD SECRETARY WADDELL: Washington.

13 BOARD MEMBER WASHINGTON: Aye.

14 BOARD SECRETARY WADDELL: Moulton-Patterson?

15 BOARD CHAIR MOULTON-PATTERSON: Aye.

16 Number nine.

17 MS. WOHL: Agenda item nine, consideration of
18 the recycling market development revolving loan program
19 application for Electronic Partners Corporation, Inc.
20 This is a loan in the amount of \$700,000 to Electronic
21 Partners Corporation.

22 Staff recommends the Board approve option one
23 and adopt Resolution 2003-193.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you.

25 Ms. Peace.

1 BOARD MEMBER PEACE: Question. How many tons
2 of E-waste does the State of California produce each
3 year, do you have any idea.

4 MS. WOHL: I don't.

5 BOARD MEMBER PEACE: Mike, know?

6 BOARD MEMBER PAPARIAN: I can lay my hands on
7 that. I don't know it off the top of my head.

8 MR. LEE: Ms. Peace, yeah, I'm sure, we don't
9 have the numbers at our fingertips, but we do do annual
10 surveys. I think we can probably get you some rough
11 estimates, but I don't have that figure immediately at
12 my disposal myself today.

13 BOARD MEMBER PAPARIAN: Madam Chair, one thing
14 I do know, it's between, between five and ten million
15 units a year become obsolete. And ballpark, you know,
16 would be about 20 pounds, 25 pounds a unit. But that's,
17 you know, just rough.

18 BOARD MEMBER PEACE: Yeah, here it says that
19 the project projects to divert 4,000 tons of E-waste in
20 its first year, and then 15,000 tons when it's at full
21 capacity in three years, and they're saying that's 45
22 percent.

23 Is that's 45 percent of what's in California or
24 45 percent of what's in the Los Angeles area.

25 BOARD CHAIR MOULTON-PATTERSON: Staff or Mr.

1 Paparian.

2 MS. WOHL: Well, staff is available, let's see
3 if they know the answer.

4 MR. LA TANNER: Jim La Tanner, supervisor with
5 the recycling market development revolving loan program.
6 The figures presented in the agenda item are provided by
7 the applicant, Electronic Partners. I would have to go
8 back and ask the company that particular question.

9 The figures shown are what the company itself
10 is going to divert. We don't have a comparison with the
11 statewide or within the area.

12 BOARD CHAIR MOULTON-PATTERSON: Okay. Well
13 maybe you can get back to us with that.

14 MS. WOHL: I'm guessing it's just their
15 increase, that they're going to increase by implementing
16 this loan by 45 percent.

17 BOARD CHAIR MOULTON-PATTERSON: Okay.

18 BOARD MEMBER PEACE: They're saying they're
19 going to divert 45, recycle 45 percent. Is that because
20 the other 55 percent are CRTs and televisions.

21 MS. WOHL: Are you looking at the bottom of
22 page 9-3? There I'm reading,

23 "With this approach EPC hopes
24 to increase the rate of electronics
25 recycling to 45 percent in the next

1 three to five years from the current
2 rate of under fifteen percent."

3 So I'm guessing that's just
4 their company's statistics.

5 MR. LA TANNER: Yeah, right.
6 On page 9-6, that's the company's
7 increase. They're currently
8 diverting fifteen percent, and
9 they're going to increase their
10 diversion in the area of 45. Their
11 production is going to increase by
12 45 percent as a result of this loan.

13 BOARD MEMBER PEACE: Okay. Thank you.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you.

15 Mr. Jones.

16 BOARD MEMBER JONES: Thanks, Madam Chair. I'll
17 move adoption of Resolution 2003-193, consideration of
18 the recycling market development revolving loan program
19 application for Electronic Partners Corporation.

20 BOARD CHAIR MOULTON-PATTERSON: Okay. I'll
21 second it.

22 We have a motion by Mr. Jones, seconded by
23 Moulton-Patterson to approve Resolution 2003-193.
24 Seeing no objection, let's substitute the previous roll
25 call.

1 Okay. That brings us to the executive,
2 administrative, and policy part of our agenda. I'd like
3 to call on Mr. Washington, the chair of that committee
4 to see if he has a report.

5 BOARD MEMBER WASHINGTON: Thank you, Madam
6 Chair. Very briefly and then I'll turn it over to our
7 Deputy Director.

8 Staff will be making some oral presentations
9 regarding the 2001 strategic plan that covers two or
10 three areas, one being public education, improving
11 efficiency and effectiveness, and then the environmental
12 justice presentation.

13 And then I believe it's Mr. Walker that will,
14 if it's the wish of the Board, to discuss the update on
15 the 2000 state audit.

16 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
17 you.

18 Mark, we need your button.

19 EXECUTIVE DIRECTOR LEARY: I do need a button.
20 Thank you, Madam Chair.

21 Agenda items 21, 22, and 23 are the last of a
22 three month series in a broad overview of our strategic
23 plan and what activities from a general perspective the
24 staff have identified as things for the Board to
25 consider and give us some feedback on in relation to

1 these various goals.

2 Today we're prepared to discuss goals three,
3 five, and six. I think we'll meet our time
4 considerations quite nicely, so let's just really wrap
5 up the rest of our agenda.

6 And as you will recall, we were providing these
7 kind of general overviews of these strategic plans, and
8 we will come back, we proposed originally either April
9 or May, and I'd like to suggest at this point that we
10 come back in May given some of the issues we know to be
11 on our plate for April.

12 We'll come back in May with some specific
13 discussion of the kind of, about the direction you've
14 given us as a result of these general discussions, and
15 look to discuss with the Board for your consideration,
16 or maybe a reprioritization of effort and a
17 reprioritization of specific activities in regards to
18 implementing the strategic plan.

19 But that's all to come in May. And again, this
20 is agenda items 21, 22, and 23.

21 Goal three we'll start with in public
22 education. And at this point I will turn it over to
23 Becky Williams of the Office of Integrated Education. I
24 would like to comment to the Board that Trish Broddrick,
25 of course, would have done this presentation, she's had

1 a little bit of a family medical situation so she's
2 unavailable today, so Becky has agreed to fill in and
3 I'm sure she'll do a great job.

4 Becky Williams.

5 MS. WILLIAMS: Good morning, Madam Chair.

6 BOARD CHAIR MOULTON-PATTERSON: Good morning,
7 Ms. Williams.

8 MS. WILLIAMS: Board members. I'm going to
9 very briefly present to you the Office of Integrated
10 Environmental Education's progress with implementing
11 goal three of the Board's strategic plan.

12 Additionally, I welcome your comments,
13 questions, and guidance on any aspects of how we are or
14 should be implementing our projects.

15 The Office of Integrated Environmental
16 Education has used the Board's strategic plan as a
17 template to implement its programs.

18 As you know, SB 373, now referred to as the
19 school deal, has provided this office with legislative
20 directives, but the strategic plan has provided the
21 framework and the process for implementation.

22 I would like to highlight a few of the
23 objectives and strategies that speak directly to school
24 programs.

25 Objective two urges the formation of

1 partnerships to maximize resources. The school deal is
2 based on the collective input of Cal EPA, Resources
3 Agency, State and Consumer Services Agency, the
4 California Department of Education, the Office of the
5 Secretary of Education, and the State Board of
6 Education.

7 The strategies connected to this objective
8 focus on constituent input to develop and adjust goals,
9 develop and maintain regular communication with our
10 partners, and target underserved populations.

11 The first step of the school deal project was a
12 survey of California educators and administrators to
13 identify their needs, barriers, and interests in
14 incorporating environmental education into curriculum
15 and to campuses.

16 These findings became important guidelines for
17 design and implementation of the school deal program,
18 and were later folded into the school deal
19 implementation plan which the Board approved last
20 September. We also maintain frequent and constructive
21 communication with our partners.

22 And with regard to reaching underserved
23 populations, the office works closely with Cal EPA in
24 the border education effort which targets the
25 California, Mexico border region.

1 Objective three encourages the coordination of
2 environmental education programs within the Board and
3 throughout Cal EPA. Specific strategies focused on
4 collaboration, working with the legislature on
5 appropriate legislation, and participation on state and
6 national organizations and associations.

7 The education office regularly holds monthly
8 meetings with our internal education partners,
9 particularly DPLA, Special Waste, and the Markets
10 Division.

11 External BDO monthly meetings provide
12 coordination between all education coordinators, and
13 have led to a collaborative effort, such as the Cal EPA
14 education home page which is now located on Cal EPA's
15 main page.

16 The education office works closely with the
17 legislative office in maintaining communication with
18 Senator Torlekson's office on the implementation of the
19 school deal.

20 We also work to follow and analyze any new
21 legislation that arises. And of recent interest is AB
22 907, authored by Assemblywoman Pavley's office, that
23 would require the State Board of Education to
24 incorporate environmental concepts into the educational
25 content standards.

1 AB 907 reflects the long term interest of our
2 office and the Board's strategic goal which is to
3 educate the public to better understand and participate
4 in resource conservation and integrated waste management
5 strategies.

6 One way this can be achieved is by reaching the
7 K-12 student population. And we've learned through many
8 years of doing this education program that this can best
9 be done when environmental concepts become an integral
10 part of the school's curriculum.

11 This concludes my piece of the strategic plan,
12 goal three. And I'd like to turn it over to Frank
13 Simpson, Director of the Office of Public Affairs.

14 BOARD CHAIR MOULTON-PATTERSON: Thanks, Ms.
15 Williams.

16 Mr. Simpson.

17 MR. SIMPSON: Thank you, Madam Chair. Frank
18 Simpson with the Office of Public Affairs. Board
19 members, thank you for being here today.

20 The current work of OPA is aligned very closely
21 with goal three and to a great extent is mandated by
22 statute and regulation.

23 Chapter twelve of the Public Resources Code,
24 Code 42600, requires us to establish and therefore
25 maintain a statewide public information and education

1 program that encourages participation by the general
2 public, business, and government industry.

3 Our assignment includes a variety of
4 educational issues, including educating the public on
5 how to reduce excess packaging, eliminating contaminants
6 from consumer goods, to encourage consumers to generate
7 less waste, and to buy recycled. We are also required
8 to provide outreach and provide public education.

9 OPA has additional authorization to use
10 marketing techniques, including radio and television in
11 paid advertising campaigns, and of course leverage our
12 dollars whenever possible with other private and public
13 entities.

14 Our strategic plan charges us with education,
15 outreach, and public education, working closely in a
16 cross-divisional cross-office manner.

17 OPA is also the clearinghouse for issuing all
18 of that information, and we want to make sure that the
19 benefits of waste management are featured in all of our
20 materials.

21 On a daily basis our office fields calls and
22 e-mails from the public, from reporters, and from every
23 division at the Board.

24 We handled Freedom of Information requests.

25 We issue news releases, news advisories, and

1 fact sheets.

2 Our graphic arts design team is continually
3 producing high quality projects and publications for
4 worldwide distribution.

5 Last year our world class graphics team
6 designed more than 150 projects, including outreach
7 efforts such as the trade show, our annual on-line
8 report, and the Resources for the Future Award.

9 Our video production unit is also working on a
10 variety of projects for internal and external use. Some
11 of those projects now posted on our website include
12 energy awareness, our green building campaigns, our
13 diversion efforts, and enforcement issues.

14 We have and continue to work in concert with
15 Cal EPA, State and Consumer Services, DTSCED, and the
16 Governor's office.

17 At any one time our publications clearinghouse
18 stocks more than 500 printed publications. We handle
19 more than three hundred requests for publications every
20 month. And we mail our publications to such exotic
21 places as Brazil, Spain, and Israel.

22 In addition to the many divisional outreach
23 efforts, our Public Affairs Office attends more than
24 twenty events each year, that's just in our little
25 office itself, and we help coordinate dozens more.

1 Since the state audit report completed in late
2 2000, we've been coordinating all of our efforts with
3 DOC to make sure that we have our booths side by side at
4 trade shows, and that we're putting out a coordinated
5 response in our handouts and our layout to avoid
6 duplication and to maximize our joint message.

7 Another one of our responsibilities includes
8 maintaining the look and feel of the Board's 10,000 plus
9 Web sites, the Web pages. Our award winning website
10 handles more than 20,000 hits a day, or 20,000 inquiries
11 from the public.

12 Our current workload includes developing
13 marketing plans for a variety of projects, establishing
14 a marketing task force internally, and we're now editing
15 a half hour video documentary on the greening of the
16 east end project. We also have three more AB 75
17 training videos coming in, and a waste tire hauler
18 manifest training video that's slated for this spring.

19 Each and every one of these events is linked
20 directly to goal three, objective one, two, three, and
21 four.

22 Now, we do look forward to finalizing our
23 communication strategy, a document in which all of you
24 have been integrally involved. And we're looking
25 forward a dozen years from now down the road to decide

1 where we should be.

2 And while diversion and markets continue to
3 drive our efforts, promoting a zero waste environment,
4 clearly as that has also become an unwritten directive
5 as it relates to goal three.

6 That concludes the Office of Public Affairs
7 presentation. I would be happy to take any other
8 questions, otherwise I'll pass it along to Jill Jones.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
10 Simpson.

11 Ms. Jones.

12 MS. JONES: Good morning, Madam Chair and Board
13 members. My name is Jill Jones. Darryl Petker and I
14 from the Office of Organizational Effectiveness will be
15 presenting this item this morning.

16 The focus again is on goal five of the 2001
17 strategic plan. Focused primarily on improving the --
18 it's clicking all over. Focused on improving -- we're
19 having mouse issues here.

20 Implementing the efficiency and effectiveness
21 of the Waste Board in pursuit of its mission in
22 accomplishing the important work we do.

23 This goal focuses on the continued improvement
24 of the Board's internal capacity and, of course, our
25 approach to our work, including the development of staff

1 at all levels to meet current and future business needs,
2 as well as providing ready access too in exchange of
3 accurate information both internally and externally.

4 And finally, to increase levels of
5 cross-organizational and cross-media collaboration and
6 communication.

7 The focus of the goal, as will be reviewed
8 today, is in the establishment of a leadership
9 development program focusing on cross-organizational
10 collaboration and communication, as I mentioned earlier.
11 Providing ready access to information, and exchanging
12 that information internally and externally.

13 And then lastly, providing the system's tools,
14 processes, and learning opportunities necessary to
15 support staff in doing their work.

16 So I'll start with leadership development and
17 give you an update on that first.

18 The continual development of leadership skills
19 for the Board's managers and supervisors is essential,
20 especially in view of the dynamic business environment
21 in which we conduct our work.

22 Our leadership development program, developed
23 under the sponsorship of Mark Leary, Executive Director,
24 has been initiated to support Waste Board leaders in
25 maintaining and developing the skills necessary to meet

1 both current and future business needs.

2 Specifically, the program supports our leaders
3 in planning and managing their own development and the
4 development of others, especially those that report to
5 them.

6 The primary focus of this effort to date has
7 included the development of a model that defines
8 expectations for effective managerial performance.
9 This model ensures that a total range of skills has been
10 identified for supporting successful managerial
11 performance in skill areas such as administration,
12 communications, inner-personal, leadership, and
13 organizational strategy. In addition, resources, tools,
14 and processes needed to support the program are
15 currently being identified and developed.

16 Status reports on implementation can be
17 provided to the Board as this initiative moves forward.

18 Moving to our second objective, addressing
19 cross-organizational communication and collaboration.
20 Our efforts are focused on furthering the Board's
21 participation in issues and activities that cut across
22 traditional environmental media and organizational
23 boundaries.

24 The Board's involvement in these cross-media
25 and cross-organizational initiatives help solve broader

1 environmental issues, and magnifies the benefits of
2 better solid waste and materials management.

3 The Board currently participates in a wide
4 variety of inner agency task force and work groups in
5 key topical areas such as education, energy, water and
6 air quality, and electronic waste.

7 A sampling of key initiatives includes, and you
8 also have this listed on your attachment to the Board
9 item, a complete list, but just a sampling:

10 One, school diversion in environmental
11 education law as Becky referred to earlier.

12 Cross-media enforcement group, and various
13 electronic waste working groups.

14 A statewide environmentally preferred
15 purchasing task force.

16 And of course, Cal EPA's own environmental
17 management system initiative.

18 For the third, information exchange and access,
19 the third part of the focus for goal five, I'll let
20 Darryl comment.

21 BOARD CHAIR MOULTON-PATTERSON: Happy birthday,
22 Darryl. Another birthday.

23 MR. PETKER: Thank you. Thank you for that.
24 Thanks, Jill. Let me catch my breath and I'll start
25 over.

1 I'll talk briefly about goal five, objective
2 three which is improving the exchange of and access to
3 information internally and externally. That's with
4 customers, stakeholders, partners, and a lot of the
5 people that we deal with on the Web and in meetings.

6 The Board maintains numerous databases with
7 information on many subjects, as you know. We have in
8 excess, I believe, of a hundred different databases here
9 at the Board alone, most of them managed by the
10 Information Management Branch, a large partner in this
11 organization -- or in this effort.

12 A lot of the databases that we're now also
13 working with are maintained by other organizations
14 within Cal EPA and outside of Cal EPA.

15 We also team with the legislature, drawing on
16 some of their information, the Water Board, and Cal
17 EPA. And we're working with other organizations also.
18 An example of that would be the California Waste Stream
19 Profiles which is on the Web and accessible by both
20 internal and external staff.

21 What the California Waste Stream Profiles does
22 is it offers information at a high level summary basis
23 to give you an overview of what we have on facilities,
24 on diversion goals, on landfills, on tires, information
25 about waste streams for jurisdictions, for counties, and

1 for organizations. That information, again I expressed,
2 comes from many different sources, and there's a lot of
3 people involved in that effort.

4 If I can talk a little bit about the technology
5 that we do. We, all of this is put out on the Web, and
6 one of the key components that we're using is the GIS
7 system which is Geographical Information System. We've
8 been up and running two or three years now, and it seems
9 to be one of the things that people like most about our
10 Web site, they can go to their place where they live,
11 look at information about all the item that are in their
12 neighborhood.

13 GIS is becoming a very important way to
14 communication information. It allows you to see
15 information in a different way, not just text and
16 tables. It allows you to compare and utilize the
17 information that we have.

18 Some of the information that you can see on
19 there, you can see the locations of landfills and how
20 they relate to your house. You can also see the
21 demographics information from the U.S. census that we've
22 also overlaid, so you can see a landfill with that
23 information that's available to you.

24 And that's all I have on that unless you have
25 any questions.

1 BOARD CHAIR MOULTON-PATTERSON: Any questions.

2 MS. WILLIAMS: We have one last focal point
3 here. That one is the systems tools, process, and
4 learning opportunities are available to support staff.
5 It is the Board's practice to ensure the training and
6 development needs of all Board employees are addressed
7 in an equitable and cost effective manner.

8 Annually development plans for both rank and
9 file and confidential staffs are developed. In the
10 development of these plans, superiors collaborate with
11 their staff to ensure performance improvement activities
12 such as training are linked to individual performance
13 objectives and are aligned with program needs.

14 Training and development activities identified
15 in this planning process range from those that support
16 upward mobility and cultural diversity to technical and
17 professional development and mandated health and safety
18 training programs.

19 On an organization-wide basis, the information
20 from the development plans is used to identify,
21 prioritize, and budget formal training and development
22 programs throughout the year.

23 To further support improvements in individual
24 group and program performance, an internal consulting
25 function was created within the Board several years

1 ago. This service focuses on partnering with program
2 managers to identify improvements to program operations,
3 and effective performance improvement solutions.

4 That concludes our comments on this item, and
5 I'll move this over to Rubia.

6 MS. PACKARD: Thank you, Jill.

7 Madam Chair, I know that you wanted to conclude
8 today or needed me to conclude by a specific time, did
9 you want me to continue with the last item.

10 BOARD CHAIR MOULTON-PATTERSON: Yes, briefly.

11 MS. PACKARD: Okay. Okay. Thank you. For the
12 record, Rubia Packard with the Policy and Analysis
13 Office, and I'll be going over goal six of the Board's
14 strategic plan.

15 In goal six the Board focused on examining all
16 Board programs and activities to identify opportunities
17 to reach out to low income and minority populations, to
18 ensure that all affected stakeholders have the
19 information and technical assistance needed to
20 participate in a meaningful manner in the Board's
21 processes and decision-making.

22 Development of an environmental justice
23 strategy, education on EJ concepts, ensuring greater
24 public and community participation in Board processes,
25 and development of an information system were identified

1 as key objectives.

2 This agenda just describes how many of the
3 things that we're doing to currently implement goal six,
4 and presents some focus for future activities for the
5 Board for Board approval.

6 This is a discussion item. And we would like
7 to just let you know that there will be additional
8 consideration items that will be brought before the
9 Board later this year as staff develop recommendations
10 for Board implementation of the recommendations
11 contained in the Cal -- excuse me, the Cal EPA
12 environmental justice strategy that's currently being
13 developed, and for implementation of any recommended
14 actions or strategies that result from the Board's
15 current environmental justice study being conducted by
16 the University of California at Santa Cruz.

17 Just very quickly I'll go through some of the
18 things that we're currently doing.

19 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian,
20 did you have a question at this point.

21 BOARD MEMBER PAPARIAN: I'll wait till she's
22 done.

23 BOARD CHAIR MOULTON-PATTERSON: Okay, thank
24 you.

25 MS. PACKARD: Thank you. As I mentioned

1 before, the Cal EPA External Advisory Committee is
2 currently, in fact they're meeting today and tomorrow in
3 West Sacramento to finalize their recommendations to Cal
4 EPA on how to devise Cal EPA's environmental justice
5 strategy which is mandated by SB 989, which we will then
6 use to guide our efforts in structuring our own
7 environmental justice strategy, and some of the other
8 activities to implement that.

9 Additionally, Board legal staff is
10 participating in the Cal EPA legal framework task force
11 that was formed last year. The goal of this group is to
12 identify any legal impediments to implementing
13 environmental justice at Cal EPA and in the Board's
14 departments and office.

15 Additionally, in December of 2002, the Board
16 approved a \$200,000 contract with the California State
17 University, Sacramento to develop a guidance document
18 for local jurisdictions to identify service gaps and
19 address enhanced recycling collection of used oil and
20 household hazardous waste programs in minority
21 communities.

22 A second major effort for us is Board approval
23 of a one hundred thousand dollar environmental justice
24 study being conducted by the University of California at
25 Santa Cruz, that I mentioned before, to assess methods

1 to increase public and community participation in Board
2 processes.

3 We anticipate receiving information on this
4 study through the priorities of key community based
5 environmental justice organizations throughout
6 California relative specifically to the Board's
7 programs.

8 The Board will also hear a series of
9 presentations by community based groups, and will
10 receive a report on best practices, summarizing federal
11 state and local government and private business
12 environmental justice strategies that we could maybe
13 apply here to the Board as we further develop our
14 program.

15 Additionally, as you're all aware through the
16 work of the advisors, we've included in the new agenda,
17 template information on environmental justice as part of
18 each item. And that, as you know, focuses on community
19 setting, land use, demographics, population, density,
20 etcetera. And also finding out from local jurisdictions
21 if there are any environmental justice issues involved
22 in that particular item, and including it as part of the
23 template.

24 Darryl already talked about the effort which
25 is, upon which we are basing the information that we put

1 into the template, in part. The California waste stream
2 profiles which is, provides the technical information
3 and demographic and contact information that we are
4 using to assist us in assessing environmental justice
5 issues.

6 Additionally, the Permitting and Enforcement
7 information -- excuse me, Permitting and Enforcement
8 Division is currently studying the frequency and type of
9 community outreach that has occurred relative to solid
10 waste permits during the last year, and will be
11 reporting the results of this study to the Board in the
12 near future. And of course, we'll take whatever action
13 the Board deems at that time.

14 The Special Waste Division is focusing its
15 effort in the area of the tire program as it develops
16 the revised five year tire plan for waste management
17 program to ensure that we are addressing environmental
18 issues through the revision of the tire plan.
19 Diversion Planning and Local Assistance Division is
20 focusing on implementation of SB 1542.

21 And although we had been trying to wait a
22 little bit on this implementation for the Cal EPA
23 environmental justice strategy, we are finding now that
24 we should be able to take the direction in the external
25 advisory committee document and proceed on a quicker

1 path with that implementation. So Pat and his folks
2 will be working on that.

3 I think, just real quickly, we've provided
4 training for LEAs on environmental justice. We've
5 provided -- or excuse me, not training but workshops;
6 and training for staff.

7 And then we also completed a study last year on
8 waste stream impacts on minority communities, and we're
9 taking all of that information, we hope, and
10 incorporating it into the development of our strategy as
11 the Cal EPA group finishes.

12 So that's it in a nutshell. If you have any
13 questions, I'd be happy to answer.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you all.

15 Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
17 Just a couple of questions.

18 First related to cleanups. There are some
19 cleanups where we participate with the Department of
20 Toxic Substances Control. There's burn dumps and
21 there's other, you know, there's other activities where
22 we participate with DTSC. I found out a couple of days
23 ago that they're involved in a very major cleanup along
24 with us, a major project with us, I don't think the
25 project itself is very important.

1 But I noted that DTSC is developing
2 questionnaires for the local community, and using the
3 information obtained from the questionnaires to develop
4 a public participation plan outlining public involvement
5 opportunities as the project continues.

6 Do we ever do anything like that at the cleanup
7 sites, or do we rely on DTSC when we do it jointly.

8 MR. WALKER: Scott Walker, Permitting and
9 Enforcement Division.

10 What we've done on that is we've worked with
11 the other agencies and, in particular, we had a couple
12 of real key cleanup projects with environmental justice
13 issues, the burn dumps in San Diego. And what we relied
14 there on was, the City of San Diego set up a whole
15 community outreach public participation plan that was
16 essentially incorporated in the project and was part of
17 their match.

18 And so on a case by case basis when there are
19 environmental justice issues we'll bring in what, you
20 know, whatever we need to do to address it. And so far
21 we've been able to get the local government to basically
22 take the lead on it and deal with it.

23 BOARD MEMBER PAPARIAN: When we're involved,
24 when DTSC is the only other major agency involved, do we
25 defer to DTSC on public participation.

1 MR. WALKER: Well, on the DTSC, if DTSC is
2 directly involved in regulatory oversight, then they
3 will handle, they will take the lead on the public
4 participation plan per their process.

5 And actually, one of the burn dump cleanups
6 that we were involved with them on in San Diego, they
7 had a public participation plan, but it essentially just
8 rolled in what the city was already doing for the
9 project.

10 But in the future project, you know, we would
11 work with them if they were the regulatory oversight
12 agency.

13 BOARD MEMBER PAPARIAN: Okay. And same with
14 tires, the tire cleanups.

15 MR. LEE: Mr. Paparian, I'll have to
16 investigate that a little bit more thoroughly. I'm not
17 sure exactly what the response to that is.

18 I guess right off the top of my head though I
19 would think though that since most of the cleanups we
20 are involved in are something that's usually very
21 desirable or perceived as such by the community, that
22 might mitigate the need for doing any extensive public
23 participation.

24 But again, that's just speculation on my part
25 right now. I need to check with my staff and I'll

1 report back to you and the Board more on that.

2 BOARD MEMBER PAPARIAN: Okay. And I'll show
3 you separately, but the case that's very current
4 actually involves a tire related cleanup.

5 Now, DTSC has a public participation manual,
6 it's actually a fairly thick manual. Are we looking at
7 doing anything like that.

8 EXECUTIVE DIRECTOR LEARY: Madam Chair.

9 BOARD CHAIR MOULTON-PATTERSON: Mr. Leary.

10 EXECUTIVE DIRECTOR LEARY: If I might chime in
11 a little bit here.

12 DTSC has a fairly developed over many years
13 public participation program within their organization.
14 It's a result of statute that requires it actually, it
15 actually extends actually from Federal statute in the
16 Resources Recovery and Conservation Act as well as the
17 Superfund Act.

18 So they have, in fact our Office of Public
19 Affairs Director, Frank Simpson, is a graduate of the
20 public participation program at DTSC.

21 I am familiar with it because I have a little
22 bit of history with that organization too, and it's very
23 sophisticated and very well done.

24 I think when we work collaboratively with DTSC
25 on our cleanups we benefit from the distinguished public

1 participation plan that they have. But it is at the
2 cost of significant resources. They have a number of
3 people involved, that the public participation plan was
4 developed over many years with input from a lot of
5 different folks.

6 I think to the extent that we're engaged with
7 them and working collaboratively we obviously will
8 benefit from their development of their very
9 sophisticated plan.

10 In the tire program, just to help Jim out a
11 little bit because I have a little bit of familiarity
12 with that, at the Westley cleanup, DTSC together with
13 the Waste Board hosted a number of community meetings to
14 discuss various aspects over the number of years we were
15 involved with the cleanup.

16 I think in that regard we were successful in
17 the sense that we got community input and developed
18 consensus by and large from the, consensus and support
19 by and large from the community around the Westley site
20 so that they ultimately, when the decision was made on
21 how to clean it up, they supported it.

22 So I appreciate your bringing it to the
23 forefront, Mr. Paparian, because it is something that
24 we've benefitted from over the years.

25 BOARD MEMBER PAPARIAN: Yea, I think, you know,

1 where I'm going with this is I think we should consider
2 whether we want to have a similar document, perhaps not
3 as thick because we don't have as many responsibilities
4 mandated by law, but so that we have some consistency in
5 our approaches to public participation.

6 The other very brief thing that I wanted to
7 mention. Mr. Lee, you and I yesterday had a brief
8 conversation about environmental justice in the tire
9 plan, and I just wanted to highlight, and we'll talk
10 about this more on Monday, at the bottom of 23-5 where
11 it says,

12 "The revision of the five year
13 tire plan presents a unique
14 opportunity for the Board to work
15 with a very diverse group of
16 stakeholders and interested parties
17 on environmental justice issues as
18 well as a variety of other issues."

19 And I certainly share that view that's
20 expressed here in the agenda item.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you.

22 Thank you, Mr. Paparian.

23 Did you want to go ahead.

24 MR. LEE: Excuse me, Madam Chair. I just
25 wanted to respond to Mr. Paparian there.

1 It is staff's intent to again bring all of the
2 strategic plan elements, you know, under the umbrella of
3 the five year tire plan revision.

4 On the environmental justice element in
5 particular, we feel we have some good things, you know,
6 to say. A lot of our cleanups, you know, take place in
7 low income communities. As I said, they are usually
8 perceived as very desirable actions that the Board is
9 undertaking.

10 You know, a lot of our grant programs are, you
11 know, includes preferential points for low income or
12 underserved areas. And so we have no problem, again,
13 with discussing all of these things and bringing it to
14 the Board's attention as part of the five year plan.

15 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
16 you. We're going to move on, and we have three brief
17 items on the P&E.

18 Mr. Paparian, did you have a report?

19 BOARD MEMBER PAPARIAN: Yeah. Very quickly,
20 Madam Chair.

21 At the P&E Committee meeting last week I
22 indicated that next month we'd hear an agenda item
23 detailing the marketing plan that Mr. Simpson and his
24 team put together for the farm and ranch program. I may
25 have jumped ahead of myself a little bit too much on

1 that item.

2 I know the Public Affairs Office has circulated
3 a document to all of your offices, and I just wanted to
4 doublecheck whether the Board would like to hear more
5 about that as an agenda item, or whether they'd be
6 satisfied just instructing Mr. Simpson to go forward and
7 implement that as quickly as possible and provide
8 whatever input they might have directly to him.

9 If it's, if there's no objection to the Board,
10 if the Board doesn't really want to have it as an agenda
11 item, I'd suggest that we do go ahead and let Mr.
12 Simpson go forward with that.

13 BOARD CHAIR MOULTON-PATTERSON: I'm in
14 agreement with that.

15 Thank you.

16 BOARD MEMBER PAPARIAN: Okay. At the P&E
17 Committee we discussed a variety of items. Rather than
18 take the time of the Board going into each one of those,
19 I think I'll just turn it over to Scott Walker so we can
20 just jump into the items themselves.

21 BOARD CHAIR MOULTON-PATTERSON: Okay, thank
22 you.

23 Mr. Walker.

24 MR. WALKER: Thank you. Scott Walker,
25 Permitting and Enforcement Division.

1 Item 27 is consideration of augmentation of the
2 environmental services contract for the solid waste
3 disposal and co-disposal site cleanup program, contract
4 IWM-C2001.

5 This item passed fiscal consent in both the
6 Permitting and Enforcement and Budget and Admin
7 Committees.

8 Therefore, in conclusion staff recommend the
9 Board adopt Resolution 2003-186.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you.
11 Motion please.

12 BOARD MEMBER PAPARIAN: Madam Chair.

13 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

14 BOARD MEMBER PAPARIAN: I'll move adoption of
15 Resolution 2003-186, consideration of augmentation of
16 the environmental services contract for the solid waste
17 disposal and co-disposal site cleanup program.

18 BOARD MEMBER JONES: Second.

19 BOARD CHAIR MOULTON-PATTERSON: We have a
20 motion by Mr. Paparian, seconded by Mr. Jones to approve
21 Resolution 2003-186.

22 Please call the roll.

23 BOARD SECRETARY WADDELL: Jones?

24 BOARD MEMBER JONES: Aye.

25 BOARD SECRETARY WADDELL: Medina?

1 BOARD MEMBER MEDINA: Aye.

2 BOARD SECRETARY WADDELL: Paparian?

3 BOARD MEMBER PAPARIAN: Aye.

4 BOARD SECRETARY WADDELL: Peace?

5 BOARD MEMBER PEACE: Aye.

6 BOARD SECRETARY WADDELL: Washington?

7 BOARD MEMBER WASHINGTON: Aye.

8 BOARD SECRETARY WADDELL: Moulton-Patterson?

9 BOARD CHAIR MOULTON-PATTERSON: Aye.

10 28.

11 MR. WALKER: Item 28 is consideration of
12 augmentation of the environmental services contract for
13 the closed, illegal, and abandoned site investigation
14 program, contract number IWM-C0130.

15 Again, this item passed fiscal consent in both
16 the Permitting and Enforcement and Budget and
17 Administration Committees.

18 Therefore, in conclusion, staff recommend that
19 the Board adopt Resolution 2003-187.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you.

21 Mr. Jones.

22 BOARD MEMBER JONES: Madam Chair, I'll move
23 adoption of Resolution 2003-187, consideration of
24 augmentation of the environmental services contract for
25 closed, illegal, and abandoned site investigation

1 program, IWM-C0130.

2 BOARD MEMBER PAPARIAN: Second.

3 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion
4 by Mr. Jones, seconded by Mr. Paparian to approve
5 Resolution 2003-187.

6 Please substitute the previous roll call.

7 Item number 29.

8 MR. WALKER: Item 29 is consideration of grant
9 awards for the farm and ranch solid waste cleanup and
10 abatement grant program, fiscal year 2002-2003.

11 Again, this item passed fiscal consent in both
12 the Permitting and Enforcement and budget and
13 administration committees.

14 Therefore, in conclusion, staff recommend the
15 Board adopt Resolution 2003-188.

16 BOARD MEMBER JONES: Madam Chair.

17 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

18 BOARD MEMBER JONES: I'll move adoption of
19 Resolution 2003-188, the consideration of the grant
20 awards for the farm and ranch solid waste cleanup and
21 abatement grant program, fiscal year 2002-03.

22 BOARD MEMBER PAPARIAN: Second.

23 BOARD CHAIR MOULTON-PATTERSON: Okay. We have
24 a motion by Mr. Jones, seconded by Mr. Paparian to
25 approve resolution 2003-188.

1 Without objection, substitute the previous roll
2 call.

3 And at this time that ends the P&E portion of
4 our agenda.

5 At this time it gives me great pleasure to be
6 able to give a resolution to one of our very, very
7 favorites. Welcome back, Mr. Cannella. We're really
8 good to see you.

9 And if you'll join me up here I think
10 maybe we'll -- or do you want us over here at the photo
11 op place? And if the Board members would join me, I'd
12 appreciate it.

13 And Sal, I just want to say that I know of no
14 Board member that made a bigger impact in three months
15 than Mr. Cannella. He was a delight to work with. He
16 was enthusiastic, committed, pleasant, and just a quick
17 learner. He really worked hard, and was a great
18 addition to this Board. And I'm not going to read all
19 these whereases, but I did want to read the last few:

20 "Whereas in his capacity as a
21 member of the Board, Mr. Cannella
22 demonstrated an outstanding
23 commitment to the conservation
24 issues with which the Board is
25 concerned, including protection of

1 public health and safety and the
2 environment, cleanup of illegal and
3 abandoned disposal sites, responsive
4 and appropriate regulation, and
5 oversight of materials recovery
6 industries such as construction and
7 demolition, successful diversion
8 achievement by California cities,
9 counties, and regional agencies,
10 development of markets for recovered
11 materials, and an open platform on
12 which members of the public and
13 stakeholders may be heard, and
14 economic development to promote
15 recycling based businesses."

16 "Now therefore be it resolved
17 that the California Integrated Waste
18 Management Board and its staff take
19 great pride in recognizing Board
20 member Sal Cannella for his
21 dedication to excellence and to the
22 mission of this Board."

23 "And be it further resolved
24 that the Board and its staff wish
25 him much continued success in his

1 future endeavors, and we'll always
2 be deeply appreciative of the
3 service he has rendered on behalf of
4 the people of California."

5 And Sal --

6 (APPLAUSE.)

7 BOARD CHAIR MOULTON-PATTERSON: Would you like
8 to say a few words?

9 MR. CANNELLA: I haven't had a mike for three
10 months, yeah, I want to say something.

11 First of all, I want to say I'm extremely happy
12 and pleased to be back amongst so many friends. I may
13 have been here a short period of time, but in that time
14 I really got to know a lot of folks and became friends,
15 and that really is an important part of anyplace where
16 you serve time is to have an opportunity to make new
17 acquaintances.

18 To the Board members, I thank you for this
19 honor. I miss all of you. I certainly miss the issues
20 that you deal with. And it seems lately it has become
21 fashionable to pick on all of you folks and other Board
22 members, and since I'm an outsider I guess I get the
23 chance to say something.

24 The folks where I live are certainly
25 appreciative of all your efforts. The tire pile that

1 caught on fire would still be there if it wasn't for all
2 of you folks. The people of Tracy are certainly waiting
3 for you to make the decisions to get that place cleaned
4 up. The thousands and thousands of people that are
5 working at jobs you've created because of your
6 innovative and creative ways of disposing goods that
7 have been tossed aside. The many things that you've
8 done to protect the environment.

9 You know, if some of the people who have been
10 writing the negative articles would take time to look at
11 all the positive things that you've done and quit
12 worrying about where you came from and what you're doing
13 being the issue, I think the people of California would
14 certainly be more appreciative of the efforts that
15 you've done.

16 Whether you get the credit or not, I know
17 you'll continue to do your job, you'll continue to
18 expand creating jobs, and you'll continue to clean up
19 areas that need to be cleaned up.

20 The tire piles that have been there for years
21 and year would never be addresses if it wasn't for you
22 folks.

23 So I'm here to say thank you for this award,
24 but more importantly to recognize the contribution that
25 all of you have made. And I know that you'll continue

1 to focus on those issues, you'll continue to be
2 advocates for your environment, and I'll tell you, the
3 three months that I've served here were some of the best
4 three months I've ever had.

5 Thank you very much.

6 (APPLAUSE.)

7 (Thereupon there was a discussion off the
8 record.)

9 BOARD CHAIR MOULTON-PATTERSON: And we are
10 going to continue this little celebration and have lunch
11 with Sal.

12 But before we do -- hey, I don't need a mike
13 here.

14 But before we do, I would like Crystal to
15 rise. Crystal Risin, our executive assistant in Long
16 Beach. And no doubt you'll get to know her. She's
17 doing a terrific job down there, and we really
18 appreciate everything she does.

19 The Board will be back around 1:30. And at
20 this time we're going to go to lunch.

21 (Thereupon the luncheon recess was taken.)

22

23

24

25

1 AFTERNOON SESSION

2 --oOo--

3 BOARD CHAIR MOULTON-PATTERSON: I'd like to
4 call the March meeting of the Integrated Waste
5 Management Board back to order.

6 And with that, Mr. Jones, do you have any
7 ex-partes?

8 BOARD MEMBER JONES: No, I just said hello to
9 my friend Jose -- or Bob Morales, sorry, from San
10 Francisco. He and I, I was a member represented by him
11 for about thirteen years and sat on the other side of
12 the table negotiating contracts for another seven or
13 eight, so he was it.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
15 Jones.

16 Ms. Peace.

17 BOARD MEMBER JONES: No, I'm up to date.

18 BOARD CHAIR MOULTON-PATTERSON: I'm up to date.
19 Mr. Medina.

20 BOARD MEMBER MEDINA: Just Mark Aprea on the
21 C&D regs.

22 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

23 BOARD MEMBER PAPARIAN: I said hello to Mark
24 Aprea.

25 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.

1 Washington.

2 BOARD MEMBER WASHINGTON: Yeah, I said hello to
3 Chuck White, Waste Management.

4 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
5 you.

6 At this time, Mr. Leary, I believe I'm going to
7 be turning it over to you. And for those of you in the
8 audience, let me just announce again, if you would like
9 to speak to the Board, please fill out a speaker slip
10 and write the number, although we're pretty sure we know
11 which number it is, on it, and give it to Ms. Waddell
12 who's right over here and we'd be happy to hear from
13 you.

14 And we're going to take item number 66 at
15 first, and then go to 32.

16 EXECUTIVE DIRECTOR LEARY: Good afternoon,
17 Madam Chair and members. Thank you.

18 Agenda item 66 is the discussion of the action
19 plan to identify and evaluate construction and
20 demolition debris sites.

21 Last month the Board will recall we heard some
22 passionate testimony from Assemblymember Sarah Reyes
23 wherein she told us of her concerns that the Crippin
24 fire had negatively impacted the health of the citizens
25 around that site in her district. She urged the Board

1 to move to prevent this from ever happening again in the
2 state.

3 Led by our chair, each of you expressed your
4 own concerns about the sites of a similar ilk continuing
5 to exist in a manner that threatens the public health
6 and safety.

7 Chair Moulton-Patterson directed me to create
8 and implement a plan that surveys and addresses
9 Crippin-like sites in a collaborative effort with DTSC
10 and Cal OSHA. Each of you followed with similar
11 direction to me and the staff.

12 What I'd like to do today is do a short
13 presentation that Scott Walker and I will present to you
14 to tell you how we followed up on your direction to
15 staff, and how aggressive we've moved in response, as I
16 committed to you that I would last month.

17 But before I do let me offer, let me take a
18 second to offer some personal perspectives from the
19 staff and I. The Crippin fire should not have
20 occurred. I think the ultimate responsibility, and I'm
21 taking words that really kind of capture my thoughts,
22 they happen to be put in paper by Justin Malan in his
23 letter to staff, but they registered with me strongly
24 and describes kind of the visceral reaction we had as a
25 result of the Crippin fire, and how aggressive we wanted

1 to move to resolve this and prevent any site like this
2 happening again.

3 The ultimate responsibility and liability for
4 the damage to public health and the environment must
5 fall squarely on the shoulders of the responsible party
6 at the Crippin site. But all related regulatory
7 agencies must accept some level of responsibility for
8 not preventing this fire in the first place. And I
9 think that message has resonated and created an
10 emotional reaction on my part and on the staff's part.
11 We wanted to address the direction you've provided to us
12 in a very aggressive fashion.

13 And I'm pleased to report to you that through
14 the collaborative efforts of the LEAs, and in some part
15 Cal OSHA and DTSC, we've embarked on an effort to survey
16 all the Crippin-like sites, sites of that ilk throughout
17 the state.

18 And we're in the midst of a very aggressive
19 survey of those sites and, in fact, as Scott will report
20 in some detail, we've even issued a notice and order at
21 one of the sites to address a situation that we think
22 has festered too long.

23 And regardless of how the Board proceeds on
24 regulations that follow in the agenda item after this, I
25 want to reassure you that we're out there, we're in the

1 field working with the LEAs. And again, I do want to
2 appreciate, express an appreciation for the support that
3 we've gotten from Justin Malan and CCDEH and all the
4 LEAs as we've embarked on this effort to address these
5 sites and prevent a Crippin-like situation from ever
6 occurring.

7 We appreciate your support and your endorsement
8 for our effort. And with this, I'll turn it over to
9 Scott to give you some of the details of the action plan
10 and the progress we've made to date.

11 Thank you.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
13 Leary.

14 Mr. Walker.

15 MR. WALKER: Thank you, Mark. Scott Walker,
16 Permitting and Enforcement Division. My part of the
17 presentation will provide a brief overview of our action
18 plan, our progress to date, and a summary and
19 conclusions.

20 A general description of the action plan is as
21 follows: We are, in the action plan we are
22 establishing evaluation, we've established evaluation
23 and prioritization to screen out potential Crippin-like
24 cases. An inventory is being compiled of all C&D
25 processing facilities. These include the wood, inert,

1 and the mixed facilities, and other wood waste chipping
2 and grinding facilities, both operating and
3 non-operating.

4 The action plan focuses on non-inert wood waste
5 and mixed sites. From the inventory staff investigate
6 sites, including field checks and determines priority
7 based on the criteria. And the final step is to
8 implement enforcement and cleanup strategies for the
9 high priority sites.

10 I'd like to point out that we are continuously
11 reevaluating the action plan and making adjustments.
12 And at any given time we may be, in a given site we may
13 be in one or more of these phases at the same time.

14 Evaluation and prioritization criteria.
15 Crippin-like sites have the potential for complicated
16 subsurface landfill type fires of pretty monstrous
17 proportions. And therefore, the main priority is to
18 screen out those potential cases as highest priority for
19 action.

20 Just to go over some of the key characteristics
21 of these types of sites. They have, we have mainly
22 unprocessed wood waste, 70 percent or more wood waste.

23 Huge, large pile size. Really Crippin was
24 probably on the order of 150,000 plus cubic yards. But
25 we're looking at 50,000 plus.

1 And also height, thickness of the pile, you
2 know. When we get out there around fifteen to twenty
3 feet, plus we start to get into these characterizations
4 that lead to potential subsurface type complicated
5 fires.

6 Another key characteristic is that there's an
7 excessive time in place of the material. Just a lack of
8 turnover, you know, on the order of six to twelve months
9 or more.

10 One of the things that we're looking at is
11 application of certain fire control guidelines and
12 standards. And although the National Fire Protection
13 Association or NFPA guidelines address outside storage
14 of forestry products, we are using them qualitatively in
15 the evaluation and prioritization.

16 And I really want to point out, though, that we
17 are not a fire authority. But as we have with our tire
18 programs, we need to continue to consult with
19 appropriate agencies, such as the State Fire Marshal's
20 Office, as to guidelines and standards that would be
21 appropriate to apply. And we're continuing to work with
22 that office, as we had with the tire program, which we
23 spent a lot of time figuring out what standards were
24 appropriate for tire sites.

25 In addition to other factors that we use in

1 screening the high priority cases include proximity to
2 sensitive land uses such as residences and schools.

3 Occurrences of hazardous or other special
4 wastes.

5 Potential worker health and safety issues,
6 which we refer to Cal OSHA in accordance with the
7 arrangements that we have with them.

8 Record of complaints.

9 And also adequacy of local oversight, including
10 conditional use permits, code enforcement, fire code
11 enforcement.

12 It's also important to point out that the
13 smaller piles may also pose a threat. They also are
14 prioritized for action based primarily on these factors,
15 poor fire control characteristics and poor facility
16 operations.

17 The site inventory investigation, and as was
18 noted before, we were compiling an inventory of all C&D
19 facilities, both operating and non-operating, and also
20 the compostable organic chipping and grinding facilities
21 too, because they also can potentially create those
22 types of situations.

23 C&D sites with wood waste are flagged for
24 further investigation, so we're not really looking at
25 the ones that are entirely the inerts because they're

1 not combustible, but we're looking for the wood waste
2 ones because that's where, you know, you want to look
3 for these types of conditions.

4 And again, the non-C&D wood waste chipping and
5 grinding facilities, I'd like to point out on those
6 there are, they may fall under our current composting
7 regulations if they're at temperature and actually
8 composting. But also we have compostable organics
9 regulations that the Board adopted in November, and
10 they're soon hopefully to be effective shortly, and so
11 we will have these under much more stringent regulatory
12 requirements.

13 We have sent out to all LEA e-mails, and also
14 have made numerous direct requests for a list of sites
15 in their jurisdictions. And in general we've had very
16 good cooperation from LEAs in this effort.

17 We are also getting referrals from other
18 agencies and persons, and are adding sites not
19 previously identified that we happened upon in the
20 field.

21 How do we go about an investigation of these
22 sites? I'm not going to get into too much detail on
23 this other than to refer to our closed, illegal, and
24 abandoned site program, some of the standard procedures
25 that we're using that are adapted for the specific

1 evaluation and prioritization criteria.

2 And this is an effort, the whole division is
3 directly involved in this effort. But we do have the
4 CIA program staff that are mobilized for the field
5 checks and for the evaluation. But it's a joint effort,
6 everybody's participating in it.

7 Enforcement and cleanup strategies. We've, we
8 have a pretty good plan in this regard. We've gone over
9 this with the legal office, and we continue to work with
10 them on this.

11 But essentially, for the priority sites we
12 would direct that the LEA take enforcement action if
13 there's no other agency that is taking adequate action.

14 If the LEA doesn't act, then the Board would
15 directly enforce as an imminent threat. We have the
16 authority under Title 14, California Code of
17 Regulations, Section 18350 to take direct enforcement
18 action, and we will if the LEA doesn't.

19 And then if the responsible party is unable or
20 unwilling to perform a cleanup, then this would be a
21 situation to refer to our solid waste cleanup program.

22 And then finally, the lower priority cases are
23 flagged for either LEA evaluation issues or for the
24 regulations soon to be effective.

25 BOARD CHAIR MOULTON-PATTERSON: Excuse me, Mr.

1 Walker.

2 MR. WALKER: Yes.

3 BOARD CHAIR MOULTON-PATTERSON: Mr. Washington
4 has a question.

5 BOARD MEMBER WASHINGTON: Scott, with that
6 direct enforcement, does that include cease and desist?

7 MR. WALKER: Correct, cease and desist.

8 BOARD MEMBER WASHINGTON: Okay.

9 MR. WALKER: Absolutely.

10 BOARD MEMBER WASHINGTON: Thank you. Thank
11 you, Madam Chair.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you.

13 MR. WALKER: Okay. Now just to conclude, the
14 lower priority cases, essentially these are where we go
15 out, we're not really seeing any problems, it appears to
16 be run pretty well, and we essentially we just flag them
17 to get them rolled into the two regulation packages.
18 Organics will hopefully have those ready and effective
19 and then hopefully the C&D soon.

20 Progress to date. We have compiled about,
21 approximately 85 sites. Again we're still, this is an
22 ongoing effort so we're still adding to this. And we've
23 checked at least 45 sites, the initial field checks.
24 We're focusing on 20 key jurisdictions where we have the
25 highest potential, urbanized jurisdiction, and other

1 jurisdictions where are the likely possibilities.

2 We project in, hopefully in two to four weeks
3 to pretty much complete the initial compilation of the
4 field checks. So we will be continuing to report back
5 to the Board on that.

6 High priority. We have three really high
7 priority ones that stand out pretty clear so far. The
8 first one is the Florin-Perkins site Sacramento County,
9 and I'll talk a little bit about that in the next slide.

10 The second case is a Bethen Court property in
11 Imperial County. It appears to be a really large pile
12 without any, much of anything being done as far as
13 enforcement on it. And staff's there this week checking
14 that out, so we'll get more information on that. But
15 based on the size and where it's at, we think it's in
16 that three, that top priority category.

17 And then finally we have the River Ranch site
18 in Riverside County, which actually had a very serious
19 fire. And there's about a hundred thousand cubic yards
20 of unburned material. And this is a compostable organic
21 site.

22 It's, and there's, we're reviewing the status
23 of it right now, but there's pretty extensive
24 enforcement action by the LEA, and we are right now
25 reevaluating that and talking to the LEA about what more

1 we could do to get it cleaned up in a more, in a quicker
2 manner.

3 The next category is we have medium priority
4 sites that right now, generally within the 10,000 to
5 50,000 cubic yard range, but there are some large sites
6 that are run pretty well. But these are sites that have
7 some indication, various indication of problems, but not
8 at least at this stage to the level of the Crippin site
9 situation, but they are prioritized for action, but
10 they're just not in that very high priority. But
11 they're being addressed essentially on a parallel track.

12 We've got twelve of those right now at various
13 stages of investigation.

14 One of those, an additional one was the Amador
15 County site that the Board heard in the permit, I
16 believe it was last month. And we have verified that
17 that has been cleaned up, so that's good news on that
18 case. The operator did as they told the Board, they
19 cleaned it up, and that's what we have confirmed. And
20 they should be back with that permit next month.

21 BOARD MEMBER WASHINGTON: Has staff been out
22 there to physically see that it was cleaned up? Anybody
23 know?

24 MR. WALKER: Yes, staff has verified in the
25 field.

1 I want to point out some of the other cases.
2 You know, we're coming up with some of these piles are
3 actually illegal transfer stations, you know, there's
4 refuse, it's basically an illegal transfer processing
5 station, putrescible waste, they clearly fit under
6 existing requirements.

7 And one of these is the Ralcco site, San Luis
8 Obispo County. It's an abandoned illegal transfer
9 processing station. The pile is not that huge, but it
10 is pretty significant, and it's in an area with a lot of
11 Eucalyptus trees, and there's a lot of other potentially
12 combustible materials, some separated plastics and
13 papers and things like that.

14 There's been a cease and desist order, quite a
15 bit of enforcement action. And the word we have on that
16 is basically right now, and we're reviewing this, is
17 that the site has been abandoned and the property owner
18 cannot be located.

19 So therefore, this case has been referred to
20 the solid waste cleanup program, which will investigate
21 the site for consideration of cleanup, and we will also
22 review the enforcement actions on that.

23 I want to point out too that, you know, again
24 to remind the Board that, you know, we are seeing some
25 operations out there, it's not like all these operations

1 are really, you know, a big huge problem. You know,
2 certainly some of 'em are, definitely. But there are
3 some well run chipping and grinding and C&D type
4 operations out there, so I don't want to leave you under
5 the impression that they're all just, you know,
6 Crippin-like situations.

7 The Florin-Perkins facility. This site is
8 located in Sacramento. It's at the corner, southwest
9 corner of Jackson Highway and Florin-Perkins Road. And
10 it's clearly our highest, it really stands above the
11 rest of what we see pretty clearly.

12 It's approximately at least, approximately
13 300,000 cubic yards of primarily wood waste,
14 construction demolition sources, but also green waste
15 sources. There's also records of quite a large recent
16 accumulation of this material on these piles.

17 We have, where we got at the site, we actually
18 have gotten in this whole action plan, Todd Thalhamer
19 and Wes Mindermann have helped us out, but also Jeff
20 Watson, we've got him involved. And we're doing things,
21 we're looking at temperature in these piles. And
22 anything above 122 degrees is an indication of
23 composting, uncontrolled composting, but also a
24 potential, you know, certainly a fire situation.

25 And so in this case we're, we had some

1 temperature readings in the field working with the LEA
2 of over 160 degrees, and this is an indication of an
3 imminent fire type situation. And it is, essentially
4 because of that, an illegal composting operation.

5 In response, the LEA promptly issued a cease
6 and desist order on March 4th. And this is a cease and
7 desist, cease acceptance of any new material,
8 immediately reduce the temperature of the piles, process
9 all feedstock. Before they accept any more material
10 they've got to clean up all the pile and take immediate
11 action.

12 BOARD CHAIR MOULTON-PATTERSON: Excuse me. Mr.
13 Jones has a question. I'm sorry, Mr. Walker.

14 BOARD MEMBER JONES: Scott, this facility, how
15 long, I mean how long have you guys been trying to get
16 this facility permitted as a landfill?

17 MR. WALKER: Well, there's a couple of
18 different types of operations here. They have a, an
19 exempt inert landfill.

20 BOARD MEMBER JONES: That takes garbage?

21 MR. WALKER: Well yeah. Well there's been
22 enforcement and an appeal panel and a lot of activity in
23 that aspect of this particular operation.

24 They also have a transfer processing station
25 which has had some enforcement problems too. And this

1 is a third operation here, a category of operation that
2 clearly they had quite a bit of activity, enforcement
3 activity at the city level with the fire department, and
4 actually the fire department, there's some litigation,
5 the fire department lost the case apparently, and so
6 there's been a long history with this.

7 And this effort here really ramps it up in a
8 whole new avenue, so. And actually in the cease and
9 desist order, we are constantly out in the field
10 monitoring the situation. And they are actually
11 implementing the cease and desist order, although we
12 still have a lot of problems, and they've got a long way
13 to go before they've mitigated the condition that's
14 currently in place.

15 BOARD MEMBER JONES: Okay. Because this was an
16 inert fill that takes C&D.

17 MR. WALKER: Right.

18 BOARD MEMBER JONES: So I'm just wondering.

19 MR. WALKER: Yeah.

20 BOARD MEMBER JONES: I know it's been, for the
21 six years I've been here I've been waiting to see it
22 permitted, so I was just wondering.

23 MR. WALKER: Right. And that C&D, that
24 landfill portion, we'll be getting to it again with
25 these phase two C&D. Regulations, but this is a

1 separate operation that we're hitting at now.

2 So in this one I wanted to just thank the LEA,
3 the LEA really stepped up on this and was really very
4 helpful on this in pushing forward on this, and promptly
5 has taken care of it.

6 But again, we've got to keep watching this one
7 because it's a real problem.

8 So to summarize and conclude, I'd just like to
9 say that we've made some significant progress to date.
10 It's a tremendous strain on resources, but the staff are
11 really motivated and, you know, doing what they need to
12 do. We've got a lot of cooperation out there from LEAs
13 and other agencies. The plan implementation is
14 ongoing. We will continue to adjust the plan as
15 necessary. And then finally, we will provide periodic
16 reports to the Board on this, and continue to press
17 forward.

18 And with that, I'll hand it off to the Board
19 for any questions that they may have.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
21 Walker and Mr. Leary. I really appreciate you getting
22 back to us with this information.

23 Mr. Washington.

24 BOARD MEMBER WASHINGTON: Thank you, Madam
25 Chair.

1 Again, Scott, in terms of enforcement, I want
2 to go back to this enforcement piece. How much time
3 would you allow the LEA to fix or take care of a
4 situation before we step in to do it? Is there a time,
5 a timeframe involved here?

6 MR. WALKER: There's no timeframe specifically
7 identified, but we would take action. In other words,
8 if we, you know, we don't have to come back to the Board
9 and have them, say, decertify the LEA. We can just go
10 ahead and do it, but we need to first request the LEA to
11 do it. And as soon as they say they won't do it or they
12 can't do it, then we would kick in as soon as possible
13 to issue an order.

14 BOARD MEMBER WASHINGTON: What if they never
15 say anything?

16 MR. WALKER: Right. Well, I think the
17 regulations give us a lot of flexibility because the
18 definition of imminent really gives us a really good
19 basis to go forward. We're pretty confident on that.
20 We've never, you know, we have not used that before, but
21 we clearly, in this particular situation -- again, with
22 Florin-Perkins we didn't have to because the LEA just
23 went for it right away.

24 BOARD MEMBER WASHINGTON: And I'm just asking
25 general in terms of what would be a timeframe, you know,

1 you go tell the LEA, you guys need to fix this problem,
2 get back to us, give us a yes or no whether you're going
3 to do it or not and they never respond to you at all. I
4 was just wondering if there was a timeframe where you
5 say, hey guys, you have six months, you have a year, and
6 we haven't heard anything.

7 MR. WALKER: No, that's not going to be
8 acceptable. I mean, you're talking days to a week or
9 two on this particular situation.

10 BOARD MEMBER WASHINGTON: Okay. All right.
11 Thank you.

12 BOARD CHAIR MOULTON-PATTERSON: Any other
13 questions for Mr. Walker?

14 That takes us to item 32, is that correct?
15 Anything else?

16 EXECUTIVE DIRECTOR LEARY: I meant to
17 introduce, and I apologize for doing so, Madam Chair, I
18 meant to introduce as part of this whole afternoon's
19 presentation is that we would do the short presentation
20 on the action plan --

21 BOARD CHAIR MOULTON-PATTERSON: Oh, excuse me,
22 I did have a public speaker for item 66, I apologize.

23 Mr. Malan, did you want to speak on this one?

24 MR. MALAN: Yes.

25 BOARD CHAIR MOULTON-PATTERSON: Didn't mean to

1 cut you off, Mr. Leary, I just noticed this speaker
2 slip.

3 EXECUTIVE DIRECTOR LEARY: Okay.

4 MR. MALAN: Madam Chair, Board members, Justin
5 Malan with the Environmental Health Directors ready just
6 to again echo our willingness and eagerness to support
7 the Board and the Board staff on this issue, and offer
8 you our support.

9 If there is any reticence amongst any local LEA
10 that the environmental health agencies have jurisdiction
11 over, please let us know.

12 I know that there is some issue with staffing
13 and adequate resources to do this work, but with respect
14 to the prioritization of these staff, of these sites,
15 please, and I know that Mr. Leary will do, give us a
16 call.

17 And we have Dan Olivera here as well, and he
18 heads up our solid waste policy committee. And he and
19 our group have committed a hundred percent to complete
20 this task.

21 Thank you.

22 BOARD CHAIR MOULTON-PATTERSON: Thank you. We
23 appreciate that.

24 Mr. Leary.

25 EXECUTIVE DIRECTOR LEARY: I was just going to

1 say that as part of agenda item 32, Scott will do a
2 brief introduction, and then staff will do a summary of
3 the comments received during the fifteen day comment
4 period, and then we'll move right to discussion.

5 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
6 you.

7 MR. WALKER: Thank you, Mark. Scott Walker,
8 Permitting and Enforcement Division.

9 Item 32 is consideration of the adoption of the
10 negative declaration, state clearinghouse number
11 2003022081, and proposed regulations for the
12 construction and demolition and inert debris processing
13 tiered regulations.

14 Allison Spreadborough and Mark de Bie will
15 provide the staff presentation.

16 MS. SPREADBOROUGH: Good afternoon, Madam Chair
17 and Board members, my name is Allison Spreadborough.

18 Following the January Board meeting, staff met
19 with stakeholders in order to facilitate the comment
20 process.

21 The fifteen day comment period began on January
22 24th and finished on February 10th. Staff received
23 eight comment letters during the fifteen day comment
24 period. One was neutral, three were against the current
25 version of the regulations, three were for the current

1 version of the regulation, and one was somewhat
2 supportive.

3 Key comments focused on the registration
4 tier -- excuse me.

5 These were the eight commenters. Comments
6 regarding the registration tier for the median volume
7 CDI processing facility mainly concentrated around
8 keeping the registration tier intact, or removing the
9 registration tier and applying the permit tier threshold
10 at 100 tons per day for a full permit. There were also
11 comments around residual percentages.

12 Following are comments received on the
13 registration tier tonnage threshold.

14 CRRC was deeply concerned about the timeline
15 for regulatory approval, and support the alternative of
16 emergency regulations for C&D processing. Also request
17 to move forward with the inert portion of the
18 regulations only.

19 In light of the Crippin fire, 300 tons per day
20 is inadequate. Appropriate tonnage threshold for a full
21 permit is one hundred tons per day.

22 There's also a comment about equivalent risk in
23 the initial statement of reasons by CDI to MSW
24 processing. Now this equivalent risk was only mentioned
25 in the state minimum standards section of the initial

1 statement of reasons. This language was used to justify
2 using the same state minimum standards for handling as
3 the transfer processing regulations. The state minimum
4 standards such as drainage, dust control, litter, noise,
5 and nuisance control.

6 The next comment mentions numerous fires and
7 hundreds of nuisance complaints associated with dry
8 solid waste in the initial statement of reasons.

9 This comment was taken out of context. The
10 actual quote in the initial statement of reasons is,

11 "The Waste Board and local EA
12 staff have documented numerous fires
13 and hundreds of nuisance complaints
14 since the composting regulations
15 were promulgated in June, 1995. The
16 Board spent a million dollars on
17 public remediation of C&D waste."

18 Staff's observations is that these sites did
19 not handle just C&D, so it's not correct to attribute
20 all of this expense to the cleanup of C&D sites.

21 The next comment cites the lack of site
22 specific conditions in a registration tier, and that a
23 full permit ensures adequacy at a local level.

24 Madison materials. Tonnage amounts should be
25 modified to equitably reflect health and safety

1 considerations. 500 tons per day and 750 tons per day
2 of C&D debris is equivalent to one hundred tons per day
3 of the type of MSW received at a transfer station under
4 a registration permit with no residual cap.

5 Board staff has determined 150 tons per day of
6 residual does not create a threat to health and safety
7 which may be generated at unregulated inert processing
8 facilities. Threats of new legislation which eliminates
9 the tiers should not go to the Board when considering
10 tier placement.

11 We believe that the registration tier will
12 protect public health and the environment without
13 discouraging the expansion of C&D recycling.

14 The City of Oakland. We believe that the
15 registration tier will protect public health and the
16 environment without discouraging the expansion of C&D
17 recycling.

18 Riverside County LEA. We support the tonnage
19 limits for the registration tier at 100 to 300 tons per
20 day.

21 San Diego County Disposal Association. A full
22 solid waste facility permit is needed for facilities
23 that handle more than 100 tons per day.

24 City of San Diego Environmental Services
25 Department. If site specific issues are present, keep

1 the 100 ton limit; otherwise, keep the 100 tons per day
2 limit for the registration tier along with the 20
3 percent residual limit.

4 If a greater tonnage is allowed, it should be,
5 more clearly be for separated waste processing purposes,
6 not solid waste transfer, and the residual limit reduced
7 to ten percent.

8 Staff believes that the proposed regulations
9 are consistent with direction given to staff. And
10 therefore, staff recommends option one, to adopt the
11 proposed regulations for forwarding to the Office of
12 Administrative Law for promulgation.

13 However, staff is willing and able to work with
14 the Board to continue to refine the regulations in view
15 of the most recent comments received.

16 This concludes staff's presentation.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you.

18 MR. DE BIE: Actually I wanted to put my two
19 cents in.

20 BOARD CHAIR MOULTON-PATTERSON: Oh, Mr. de Bie.

21 MR. DE BIE: Thank you. Mark de Bie with
22 Permitting and Inspection.

23 One part that we wanted to update the Board on
24 is in adopting regulations there's a requirement to
25 comply with CEQA and report to you that the public

1 comment period has concluded and there have been no
2 comments received from the public.

3 And we've contacted all the state agencies that
4 were forwarded a copy of the CEQA document, and none of
5 them will be commenting on the CEQA document.

6 And just to reiterate what Allison indicated is
7 staff is ready, willing, and able to assist the Board in
8 refining the regs further if that's your desire.
9 However, we are certain that the current version does
10 reflect the most recent direction given to us.

11 Just to keep in mind that if changes are made
12 to the regs that require an additional fifteen day
13 comment period, that the timing will be very, very
14 tight. And we would suggest in that case that the Board
15 consider scheduling a meeting to hear or to adopt the
16 regs prior to the next scheduled Board meeting to give
17 staff adequate time to finish the rulemaking file and
18 forward it on.

19 And I think that's all I wanted to add on to
20 Allison's presentation.

21 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
22 you.

23 Seeing no questions from the Board at this
24 point, we'll go to our speakers. Oh, excuse me, Mr.
25 Jones.

1 BOARD MEMBER JONES: I'm just wondering, how
2 are we -- sorry, Madam Chair.

3 How are you planning on dealing with this
4 thing?

5 BOARD CHAIR MOULTON-PATTERSON: Well I thought
6 we'd hear from the speakers, and then we would take a
7 vote on the motion on the floor and go from there -- or
8 not the motion on the floor, the proposal, and see if
9 it's, and then if we don't have any resolution then,
10 then we'll go and try and work something out.

11 BOARD MEMBER JONES: Okay. Can I ask a
12 question on the neg dec? You said, you said that there
13 were no comments on the negative dec, is that what
14 you're saying?

15 MR. DE BIE: Yes, we received no comments from
16 the public on the neg dec.

17 BOARD MEMBER JONES: I had given the members a
18 copy of, which concerns me because there was nothing,
19 there was really nothing marked on the negative
20 declaration by the Waste Board staff that there was any
21 risk at all to public health and safety with these
22 regulations.

23 But yet when NorCal's B&J Landfill wanted to do
24 an ADC stockpiling project in Vacaville in Solano
25 County, the Board put together about a six page response

1 chastising the LEA that they should, or the planning
2 department in Solano County that they shouldn't do a
3 mitigated neg dec in that case because of, in
4 particularly the stockpiling of C&D at that landfill.

5 And the reasons that the Board staff talked
6 about at great length was the fact that gypsum
7 commingled in C&D, that when it mixes with organic
8 material and is wet, puts off sulfur oxides. And I
9 think your wording was, "In concentrations enough to be
10 harmful to the public health and safety." And then you
11 further warned that if it caught on fire it would be,
12 would create sulfur dioxide, which is a registered
13 hazardous waste and creates a problem.

14 The fact that -- and I helped. I mean there's
15 no getting around the idea that when that declaration,
16 when that comment period came around, that you guys were
17 in my office talking, the operator knew that I was
18 opposed to the project. I was opposed to it because I
19 couldn't figure out where they were going to put 34
20 piles of material over parts of the landfill. And that
21 got to do with volumes and piles.

22 But I didn't learn until, I mean I learned
23 about it afterwards, the risk that our Board staff felt
24 with the gypsum commingled in C&D. How does that become
25 a huge problem for a proponent of a project, and less

1 than significant when we're talking about concentrations
2 of material that we have no control over statewide in
3 piles that could be as much as 108 times what this room
4 is. The volume of this room, 108 times.

5 How is that not a potential for a possible
6 risk? I really need to know. I mean that scares me.

7 MR. DE BIE: Certainly. A couple observations
8 about staff's understanding of that project that you
9 described that was at the Hay Road Landfill.

10 It was our understanding, and part of the issue
11 with that project and that particular document was that
12 the project wasn't clearly described, so there was a lot
13 of guessing going on. And I think our comments indicate
14 that, that there was lack of clarity.

15 But there was some indication that potentially
16 the project would include utilizing long-term storage of
17 ADC by mixing materials such as C&D with sludge, with
18 tires, with ground green waste; burying it; and leaving
19 it in the ground for several years, if not decades.

20 There was an indication in the document that
21 they may be talking or considering something like 3.7
22 million cubic yards over the life of the project.

23 So I think part of the factor that shows some
24 inconsistency between what the pile size limits that
25 we're asking for in these regs and that project is the

1 magnitude of scale in terms of potential impact.

2 Plus we're talking about, in these regs, piles
3 that would not be able to exist in a commingled form for
4 more than fifteen days before they would have to be
5 separated out.

6 These regs do require mixed C&D to be processed
7 within fifteen days of receipt on site. So we're not
8 talking about piles that would exist in a commingled
9 form for more than fifteen days, whereas again in the
10 Hay Road they're talking about adding materials to C&D,
11 burying it, and leaving it in the ground for a
12 significant amount of time.

13 So there were at least two significant
14 differences in staff's mind between that particular
15 project and what these regs would allow.

16 BOARD MEMBER JONES: Okay. I'll have more a
17 little bit later.

18 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

19 BOARD MEMBER PAPARIAN: Yeah, I'm just curious.
20 Mr. Jones, are you suggesting that there should be an
21 EIR on these regs?

22 BOARD MEMBER JONES: No, what I'm suggesting is
23 that it scares me when we pick and choose the issues
24 that we want to have a voice on. And clearly the regs
25 say that somebody can take in unprocessed thirty days

1 worth of commingled material, and that once it's
2 processed it can be on site for up to a year. There's
3 nothing there that says they have to sort each material
4 type out to put in that pile.

5 So I see the same problem of storage of ADC
6 containing C&D as the actual C&D at the site without
7 proper conditions.

8 BOARD MEMBER PAPARIAN: It does sound like
9 you're arguing that since an EIR was requested in, at a
10 specific site that the regulations then should be
11 subject to an EIR.

12 BOARD MEMBER JONES: Actually what they had
13 said was a mitigated neg dec for the Hay Road. What
14 these say is just a negative declaration without any
15 consequence.

16 So I was, my question was more do they think
17 it's less than significant? Their answer seems to be
18 yes. It just doesn't seem very consistent with the
19 direction they gave any other project.

20 So I don't think it needs a full EIR, but I
21 don't think it can be dismissed as less than
22 significant, as having no impact.

23 BOARD MEMBER PAPARIAN: Have we -- I guess I'd
24 ask our counsel. Do we ever do EIR's on our regulations
25 or mitigated neg declarations on our regulations?

1 CHIEF LEGAL COUNSEL TOBIAS: We would if we
2 thought that they had a potential for significant
3 envirommental effect. But that's not the case in this
4 situation.

5 The reason, I think it's important to
6 distinguish between a CEQA compliance for the adoption
7 of regulations, and CEQA compliance for an individual or
8 specific project. In this case what we're doing is the
9 environmental impact of the adoption of the regs, that's
10 the decision before the Board.

11 And so what we're looking at is whether the
12 regs themselves will contribute to the potential for a
13 significant effect.

14 The fact that there may be significant effects
15 associated with projects that are permitted under the
16 regulations themselves would be subject to site specific
17 CEQA compliance at the time the projects go through the
18 process.

19 BOARD MEMBER PAPARIAN: Madam Chair, one more
20 thing.

21 BOARD CHAIR MOULTON-PATTERSON: Sure.

22 BOARD MEMBER PAPARIAN: Given the, I'm not
23 quite clear on the process we're going to be following
24 this afternoon, but I wonder if it might be appropriate
25 to just have a resolution on the table so that we know,

1 or out there so that we know what we're talking about.

2 BOARD CHAIR MOULTON-PATTERSON: You prefer to
3 vote on it?

4 BOARD MEMBER PAPARIAN: I don't know if we
5 should vote on it right now, I'd defer that to you, but
6 I wonder if you would like a motion? I'd be happy to
7 move the resolution now just to have it out there.

8 BOARD CHAIR MOULTON-PATTERSON: And then have
9 the public comment?

10 BOARD MEMBER PAPARIAN: Yeah.

11 BOARD CHAIR MOULTON-PATTERSON: Okay. Why
12 don't you?

13 BOARD MEMBER PAPARIAN: Okay. So I'd move
14 Resolution 2003-257.

15 BOARD CHAIR MOULTON-PATTERSON: I'll second it.

16 BOARD MEMBER JONES: Madam Chair.

17 BOARD CHAIR MOULTON-PATTERSON: Yes.

18 BOARD MEMBER JONES: I'd like to make a
19 substitute motion.

20 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

21 BOARD MEMBER JONES: I'd like to move a
22 substitute motion that our regs be changed to include a
23 notification tier that would go from zero to 25 tons per
24 day.

25 A registration tier from 26 tons to a hundred

1 tons per day.

2 And a full solid waste facility permit from a
3 hundred tons up.

4 That storage be no more than 600 tons
5 unprocessed of organic material at any given time for
6 notification and registration.

7 1,200 tons for processed material.

8 1,500 tons of unprocessed inert material.

9 5,000 tons of processed material could be
10 stockpiled.

11 I move that we include, in conjunction with the
12 LEA, a requirement under registration to include a fire
13 prevention plan as part of the package to be enforced by
14 the LEA as far as delineation of piles.

15 I also move that we include an injury, illness,
16 and prevention plan to be attached to the registration
17 packet that describes the job of each employee on the
18 site and the steps that will go forward to protect them.

19 I move that we clarify section 17381, big D (3)
20 that says that material could be, it states now that,
21 "Any material, whether or not from a C&D site, could go
22 to one of these facilities."

23 I want that clarified to say that it can come
24 from a woodworking, plumbing, or electrical fabricating
25 shop or pottery shop.

1 I wanted to change or add to the definition at
2 17381 little (v) (U) under the heading of processing, we
3 need to add, "The material needs to be chipped,
4 shredded, ground, or baled." It is not merely enough to
5 just look at it.

6 And under 17381 (1) parentheses (1) (A),
7 "Separate at a point of generation single product
8 container," we've added for some reason,
9 "notwithstanding commingled." The paragraph goes to
10 source separated, and we've added, "Commingling
11 cardboard, metal, and lumber would be appropriate," that
12 needs to be stricken.

13 And we need to clearly define that at landfills
14 and aggregate facilities, that they, because they are
15 part of an ongoing thing, what we'd agreed to before was
16 that their stockpiles could be larger, because that's
17 what they do is make rock. And I saw it stricken and
18 I'm not sure if it's addressed somewhere else.

19 And that, Madam Chair, is my motion.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
21 Jones.

22 I have, I do have a legal question. I don't
23 hear a second yet. But it's my understanding that we
24 can only vote on what's on, proposed on the table. That
25 we could give direction and then go out for fifteen

1 days. Would you clarify that for me? We have a
2 resolution on the floor, I mean on the, in the packet --

3 CHIEF LEGAL COUNSEL TOBIAS: I think, I don't
4 think you can adopt that. If the substitute motion
5 succeeded, then what that would be is direction to go
6 out to the --

7 BOARD CHAIR MOULTON-PATTERSON: Okay. Well I
8 have no problem with that, but I just wanted to make
9 that clear that it would have to go out for fifteen
10 days.

11 BOARD MEMBER JONES: Sure.

12 BOARD MEMBER WASHINGTON: I second that for
13 purposes of discussion.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. So we
15 have a motion by Mr. Jones, seconded by Mr. Washington.
16 We're still going to hear the public comments though.

17 Mr. Paparian.

18 BOARD MEMBER PAPARIAN: Just a couple of quick
19 things. I don't think, do you have copies of that for
20 us? I tried to keep some notes, I was having trouble
21 tracking all of that stuff.

22 BOARD MEMBER JONES: I actually didn't think I
23 was going to have to do this, so no, but we can figure
24 it out for you.

25 BOARD MEMBER PAPARIAN: I think getting some

1 copies would be appropriate.

2 And the only thing -- the one thing I'll thank
3 you on on this is that I don't think I'm the only one
4 that can be accused of acting like a staff member.
5 There's a lot of detail in some of my proposals, and
6 there's certainly quite a bit of detail there. And if
7 you can get some copies of that, I would appreciate it
8 so I can look at it.

9 BOARD MEMBER JONES: No problem.

10 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
11 you, Mr. Paparian, Mr. Jones.

12 We have heard a lot of public comment about
13 this issue, and we have a lot more today. I would ask
14 that you keep your comments to three minutes, and even
15 shorter if you can be more concise. We want to hear
16 you, but please, we have a lot of speaker slips, so
17 please keep it to three minutes.

18 In about half an hour we'll probably take a
19 break, and I just want to warn you about that.

20 And with that I will call our first speaker,
21 Mr. Mark Aprea, Aprea and Company, on behalf of Republic
22 Services.

23 MR. APREA: Madam Chair, members of the Board,
24 my name is Mark Aprea.

25 On behalf of Republic Services, we urge that

1 you reject the motion before you, and we would urge that
2 you vote in favor of the substitute motion made by Mr.
3 Jones.

4 These, the regulations that were in the Board
5 package provide, in our view, tiered thresholds that are
6 unreasonably high. And these regulations, by everyone's
7 view, provide inadequate enforcement mechanisms.

8 Madam Chair, members, solid waste as defined in
9 the Public Resources Code includes C&D waste. C&D is
10 not a non-traditional waste, and an operator or an
11 enforcement agent cannot accurately distinguish between
12 C&D, a C&D load and a load of municipal solid waste.

13 Many solid waste haulers have processors under
14 the guise of handling C&D waste, in fact are collecting
15 and processing municipal solid waste. And because there
16 is no way to accurately distinguish between the two, the
17 100 ton per day threshold, the equivalent of our
18 transfer station regs, is appropriate.

19 Many of those who favor the 300 ton per day
20 threshold argue that these are appropriate because, in
21 fact, all facilities will receive identical or
22 comparable regulatory oversight.

23 First of all, we all agree that the current
24 enforcement mechanisms in this reg package are not
25 adequate.

1 And second, by that line of reasoning, there
2 should be no full solid waste facility permit issued in
3 any event, either for a landfill, for a transfer
4 station, or for a diversion facility. Because, in fact,
5 all of these facilities will receive comparable
6 enforcement action.

7 Now clearly we think that line of reasoning is
8 inappropriate, that there are clearly distinctions, and
9 that there needs to be a clear line between what
10 receives a full solid waste facility permit and review
11 by this Board, and that which does not.

12 So again, I would like to reiterate that we
13 would urge you to reject the proposal in the package
14 before you, and to support the alternative motion made
15 by Mr. Jones.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
17 Aprea.

18 We have Barry Broad of the California Teamsters
19 Public Affairs Council, followed by Donald Gambelin.

20 Mr. Broad.

21 MR. BROAD: Good afternoon, Madam Chair,
22 members of the Board.

23 It's a happy coincidence today that the
24 California Labor Federation had its legislative
25 conference in Sacramento, and many of our teamster

1 leaders happened to be here in Sacramento today, and
2 they could come along and see their government in
3 action.

4 I'm also gratified to know that your staff has,
5 somewhat belatedly it seems, decided to find out how
6 many unregulated facilities there are in the state that
7 are, you know, have internal temperatures of 160 degrees
8 in the winter, that last week or the week before a cease
9 and desist order was issued on one 10 miles down the
10 road from here.

11 It is gratifying to know that the staff here
12 that is so dedicated to deregulation of this industry
13 has finally awakened to the danger that is posed by C&D
14 waste.

15 Anybody, anybody that knows what comes out of a
16 construction site knows that there's nothing inert,
17 there's nothing particularly safe, there's nothing
18 particularly, particularly lacking in danger to the
19 public about construction sites.

20 And the Department of Toxic Substance Control,
21 and I know you've seen this document, surveyed these
22 facilities and came up with dozens of regulated
23 hazardous wastes that are in C&D facilities.

24 To say that they're not permitted to accept
25 these is to simply put the blinders on. Sheetrock has

1 lead paint. Plumbing fixtures have lead solder.
2 Treated lumber has copper arsenic. Pressure treated
3 lumber has been banned from playgrounds because it poses
4 a threat to children just existing, playing in it. What
5 happens when it's concentrated and it's brought to a C&D
6 facility?

7 We think the question should be here, first and
8 foremost, what is best for public health and safety,
9 worker safety, and the environment? What will be best
10 served? Which proposal would we be best served?

11 Clearly we would support Mr. Jones' proposal,
12 which is the first proposal I've heard in the many
13 months that this has been debated that really has taken
14 a look at the risk that this poses to the public and
15 addresses the potential risk.

16 I think the legislature may look at this issue
17 and address other sorts of questions related to the way
18 this Board operates and the way, the interaction between
19 this Board and the LEAs and so on. But I believe Mr.
20 Jones' motion is a good beginning, but it is only a
21 beginning.

22 Let's examine this situation. What do we get
23 out of this 300 ton proposal? What does the public gain
24 here? That's a good question.

25 The public loses its right to have any impact,

1 any ability to comment on, and in many circumstances any
2 knowledge whatsoever that this proposal for one of these
3 facilities is going into their community.

4 And I have talked to a number of you and a
5 number of the staff people and I have been told over and
6 over again that one of the greatest dangers here is that
7 the public will be able to weigh in, and the public
8 doesn't like these facilities.

9 Well, we don't believe the public, which is us,
10 is the enemy. We believe that the public's input is
11 important. We believe that even the most inert of these
12 materials, like concrete, when you crush concrete it
13 becomes an airborne health hazard. If you work around
14 it, you can get a disease like silicosis. You can get a
15 disease like black lung disease. You can die from
16 that. That's what workers face, that's what the
17 community faces.

18 Now what does the public get in this, under the
19 300 ton deal? Mr. Crippin, Mr. Crippin with the
20 spontaneous fire that somehow no one knew the threat
21 existed until after it started burning for weeks, Mr.
22 Crippin right now --

23 BOARD CHAIR MOULTON-PATTERSON: Please
24 summarize, Mr. Broad.

25 MR. BROAD: I'll get there. Mr. Crippin under

1 this proposal would be able to go into business right
2 now, and there's nothing anybody could do about it.

3 The public, including our union, has the right
4 to weigh in. The hundred ton, it's a beginning, it's a
5 good proposal, we would support it, and we urge its
6 adoption.

7 Thank you very much.

8 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
9 Broad.

10 Donald Gambelin from NorCal Waste Systems,
11 followed by Dan Avera.

12 MR. GAMBLIN: Donald Gambelin, NorCal Waste
13 Systems out of San Francisco, representing small and
14 large C&D recyclers, amongst various other aspects of
15 our company and employee owners. And I do also and will
16 continue to remark that those are also fully permitted
17 C&D recycling facilities that I do represent.

18 Thank you, Mr. Jones, for bringing up something
19 that I thought I had put behind me, and that was the Hay
20 Road permit process related to storage. But I think
21 your point, and I do remember that process well, it is
22 important.

23 These regulations will facilitate the storage
24 of material that can be problematic. Let's think about
25 that for a minute. If you bring in C&D waste and

1 process it, and set aside a pile of wallboard, that
2 wallboard when it gets wet begins to generate hydrogen
3 sulfide gas. That is a significant health issue that
4 was certainly not addressed in any CEQA documentation
5 that I read through on this regulatory package.

6 So again, thank you, Mr. Jones, for reminding
7 me of that nightmare.

8 I think the information speaks for itself in
9 front of you, as it has throughout this entire process,
10 and certainly what was presented in item 66 about the
11 problems with C&D recyclers across the state.

12 This regulatory package, and not to overuse a
13 word that's been in the media quite a bit these days,
14 but these regs can really preempt problems by sending a
15 clear message that this waste, C&D waste is regulated,
16 and that these facilities will be regulated.

17 Our comments again, which we've provided in the
18 past, we remain consistent on those comments. There's
19 no reason, there's no supporting information aside from
20 a philosophical thought that this reg package may or may
21 not encourage recycling. In fact, there is significant
22 info that C&D waste facilities do present a problem.

23 But my point is there's no supporting
24 information that C&D recyclers are cleaner, less
25 potentially environmentally damaging or otherwise, than

1 MSW transfer and processing facilities.

2 I went back real briefly to the statement of
3 reasons published by this Board in May, 2002, and I
4 noted an interesting item here. Where it referred to a
5 C&D processing facility of over a hundred tons, it said,

6 "Because of the large volume of
7 material received, the degree of
8 Waste Board related public health
9 and safety and environmental
10 concerns posed by this type of
11 facility is significant."

12 Yet it then goes on to say, but we're going to
13 give it a registration tier over a hundred tons per day.
14 That was the proposal on the table at the time.

15 Now, that's interesting in two respects. One
16 is that it says it's a significant environmental and
17 public health issue, yet we're going to give it a lesser
18 regulatory oversight.

19 But secondly, it's more problematic, I believe,
20 because if I remember correctly, when registration tier
21 was adopted, it was adopted on the premise that the type
22 of facility it was going to regulate did not present a
23 significant potential environmental impact. We have
24 conflicting information here, I thought I would point
25 that out.

1 I think what these regs do, and if I had to be
2 a recycler that was similar to what was on the cover of
3 C&D Recycler, the January/February issue, 2003, that
4 shows a pile of MSW, nothing less than MSW in their yard
5 to be processed, I think what this regulatory package
6 does is send this message. It says call yourself a C&D
7 recycler and you can avoid proper regulatory oversight,
8 you can avoid environmental review, you can avoid public
9 scrutiny, you can avoid public oversight, you can avoid
10 Board oversight, and you can avoid proper permit
11 tiering.

12 Thank you.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
14 Gambelin.

15 We have Dan Avera, San Bernardino County LEA,
16 followed by Steve Moise, Riverside County LEA.

17 MR. AVERA: Good afternoon, Madam Chair and
18 Board members. My name is Dan Avera, I'm the Director
19 of Environmental Health from San Bernardino County.

20 And today I'm here representing CCDEH, I'm the
21 chair of the solid waste policy committee. I'm here to
22 support staff's recommendation on the C&D regulations.

23 We've been discussing these regulations for, I
24 believe, over three years, and some go back further than
25 that, and I think it's time to move forward.

1 I think there are significant public health
2 risks, and if we don't do something now, each delay will
3 cause problems in the future. The LEAs are committed,
4 the environmental health directors are committed to
5 protecting public health and safety.

6 This reg package needs to be moved forward. Is
7 the reg package perfect? No. As we've gone through the
8 regulation process on a number of topics they're not
9 always perfect, but I think we need to make a commitment
10 today to move forward, evaluate the implementation
11 within the next twelve months.

12 We are committed to increase the inspection
13 frequency, work with Waste Board staff to identify these
14 facilities, see what the real risk they may pose to the
15 community, identify those and implement the specific
16 regulations and see what the outcomes are.

17 We need to look at the enforcement and the
18 inspections, and evaluate the inspections themselves and
19 the outcomes. Then if the regs need to be, have any
20 adjustments, we can make the adjustments later on.

21 We look forward to working with the Board and
22 Waste Board staff on identifying and regulating and
23 permitting C&D facilities. I think it's important that
24 we move forward today and we support staff's
25 recommendation.

1 Thank you.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you.

3 Steve Moise, Riverside County LEA, followed by Joseph
4 McCann.

5 MR. MOISE: Good afternoon, Madam Chair,
6 members of the Board. Steve Moise with Riverside County
7 LEA.

8 BOARD CHAIR MOULTON-PATTERSON: Oh, I'm sorry,
9 I thought that was an O.

10 MR. MOISE: That's quite all right. Initially
11 our position over time has been more in support of the
12 existing regulation structure the way it is.

13 Given this juncture in time, you know, we feel
14 that we've got something that we can work with. There
15 are a number of issues still in terms of implementing
16 the regulations as they stand now.

17 I have been working with staff, and I think,
18 depending upon the outcome of that, the interpretations,
19 particularly with respect to identifying whether or not
20 we have a recycling facility or a processing facility,
21 where we look into requesting or responding to an
22 operator's request for an extension of storage times and
23 processing times, because I anticipate a number of those
24 requests from the facilities that we have.

25 I think we can get there. And I think that

1 will give us comfort from our perspective, particularly
2 with respect to the recycling end of the picture and
3 with their storage and limitation times.

4 Thank you for your time.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you.

6 We have Joseph McCann, Riverside County Waste
7 Management Department, followed by Patrick Munoz.

8 MR. MC CANN: Thank you, Madam Chair and
9 members of the Board. Joe McCann with Riverside County
10 Waste Management Department, General Manager, Chief
11 Engineer speaking on behalf the local task force for
12 Riverside County.

13 The Riverside County local task force formed a
14 subcommittee within its membership back in April, 2002,
15 to review and comment on the construction demolition
16 debris processing and disposal regulations proposed here
17 today by this Waste Board.

18 The subcommittee, aided by our staff, hosted an
19 educational seminar in Riverside in May of 2002, and
20 later commented on the regulations proposed today in
21 formal written correspondence in June of 2002, and
22 February 10th, 2003.

23 A summary of our letters is supported by the
24 LTF subcommittee and expressed the following main
25 concerns:

1 We believe implementation may reduce recycling
2 reuse of these materials in our county when fully
3 implemented due to the stockpile and storage times.

4 The potential classification of stockpiles that
5 are destined at some point for reuse into disposed
6 classifications.

7 Entangling of the records when reuse then
8 occurs would require more bureaucracy than you can
9 imagine.

10 And agencies that will suddenly be put at risk
11 for 50 percent diversion compliance due to the
12 redefining of AB 939 ground rules.

13 Recordkeeping for operators and enforcement
14 agencies will be very, very complex and costly.

15 And we believe the most significant control in
16 dealing with public health issues should rest with the
17 regional water boards whose existing authority, when
18 applied to these activities, would cover all the alleged
19 statewide interest, leaving no substantial purpose for
20 the new complex regulations.

21 Local land use controls should be left as the
22 guiding control on these activities. They are
23 adequately influenced by a statewide CEQA process.

24 And to the extent further statewide control is
25 necessary, it should rest with the state water boards

1 and state air pollution control boards.

2 Finally, a primarily concern of the LTF
3 subcommittee is related to the relaxed tonnage limit for
4 processing facilities contemplated today. It is our
5 understanding the current threshold for a full solid
6 waste facility permit for traditional processing
7 facilities is 100 tons per day.

8 The regulations for C&D processing facilities
9 would become 300 tons per day, in essence allowing for
10 less regulation of a more broadly defined waste stream
11 than is currently defined, i.e., inert material. This
12 appears to conflict with the stated health and safety
13 reasons for the regulations.

14 It is the belief of the LTF subcommittee that
15 existing regulations are sufficient for the enforcement
16 agency to protect the health and safety when enforced.
17 An additional regulatory scheme will not prompt more
18 enforcement by EAs that fail to do so.

19 I have resubmitted the aforementioned letters
20 for the record, and appreciate the opportunity to
21 comment today on behalf of the LTF subcommittee.

22 Thank you.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you.

24 We'll have Patrick Munoz, Ruttan and Tucker
25 from Madison Materials, followed by a break.

1 MR. MUNOZ: Good afternoon, Madam Chair,
2 members of the Board.

3 With respect to, first of all, Mr. Jones'
4 proposal, from our perspective there was a lot there, it
5 was hard to get it all down. I have a general concern
6 that it's being offered at such a late date that it
7 can't, and it's so different than what's before you,
8 that it can't be adopted without or with complying with
9 the current timelines that you're trying to work within.

10 There are a number of changes that we certainly
11 would like to see to the regulations if there was more
12 time to continue to work on them. And it just strikes
13 me that those are things that people will have to deal
14 with after the fact as the regulations are finetuned
15 like so many other laws and regulations.

16 There are several points that I think are
17 worthy of merit but, again, I think they would have to
18 be things to be considered later.

19 A fire suppression plan, I think that's a great
20 idea.

21 An injury prevention plan, I think that's a
22 great idea.

23 The idea in many respects is not completely
24 lacking in merit, it's not our position, I just think
25 that with respect to some of the key substantive issues

1 we certainly, as I'm sure you can assume, we disagree.
2 And I don't think it can be adopted because it's so
3 different, I don't think it can legally be adopted
4 within the timelines you're working on.

5 Staff's recommendation, on the other hand, is
6 something that has been kicked around for a long time,
7 it's not new, people have had a chance to comment on it,
8 it has gone through a CEQA analysis already, comments
9 have already been submitted or the opportunity for
10 comments has already been offered.

11 I think that the staff proposal does a number
12 of things that are beneficial for sort of both sides of
13 this argument.

14 Certainly it does provide for the health and
15 safety of workers.

16 Certainly it promotes recycling.

17 Certainly it promotes growth in this industry
18 which promotes the growth of jobs. Those are all
19 valuable attributes, I think, of the existing proposal.

20 As you know, we would prefer 500 tons, we would
21 prefer 750 tons in a registration tier. We can live
22 with 300 tons, we are in support of that. Anything less
23 than 300 tons, I think the reality is that the, that the
24 regulation package really becomes unusable from a
25 registration tier standpoint to people in the industry.

1 From staff's analysis, the current analysis,
2 the analysis that we've from them over the months, the
3 years that we've been working on this, it's fairly clear
4 that, in my mind at least, that with the current
5 proposal before you, tonnage isn't really the primary
6 issue, staff could have supported a much higher tonnage,
7 but the real issue is health and safety concerns. And
8 the minimum standards that are out there, the language
9 of the regulations themselves I think can provide for
10 that.

11 We would support more enforcement related
12 provisions if that's something that's important to the
13 Board, although we say that with the proviso that, you
14 know, there should be a certain sense of fairness.

15 If there are going to be explicit new
16 provisions that apply to this industry in this type of a
17 permitting tier structure, they should also apply to the
18 transfer processing tier structure as well, and all
19 other types of permits as well.

20 And so in conclusion, your staff is unbiased.
21 I've said it before, I'll keep saying it. I think you
22 need to seriously consider that fact when you look at
23 the current proposal. And we would encourage you to
24 support it.

25 Thank you.

1 BOARD CHAIR MOULTON-PATTERSON: Mr. Munoz, I
2 had a comment and Mr. Jones does.

3 I just wanted to say, and I guess I
4 misunderstand here, but my thought was we have something
5 on the table, that it needed to be voted up or down, and
6 many of these ideas that Mr. Jones has included I
7 thought we'd get there. And, but I thought that what
8 was the legal way to do it was that you would vote on
9 what was on the table first rather than something that
10 hasn't been out.

11 So anyway, I just wanted to address you on
12 that.

13 Mr. Jones.

14 MR. NICHOLSON: If that's a question, I
15 certainly agree with you.

16 BOARD MEMBER JONES: And I think we can work
17 that out, Madam Chair, although the hundred tons was out
18 for a long time, so I think everybody commented on.

19 I have a question, Mr. Munoz. When you go to
20 these C&D regs, under definition it says,

21 "Construction and demolition
22 waste includes the waste building
23 material packaging, rubble,
24 resulting from construction,
25 remodeling, repair, and demolition

1 operations on pavements, houses,
2 commercial buildings, and other
3 structures."

4 That being said, and the fact that you're
5 a, you represent a C&D whatever, processor or transfer
6 station or recycler who has been telling us that we're
7 going to get a full permit since the first meeting.

8 But I'm wondering where exactly in this
9 picture, the highlighting where disposal, is the origin,
10 or where did this material come from?

11 This material is, doesn't fit the definition of
12 C&D. So I think it highlights, though, the problem with
13 these regulations. So I guess I'm asking, is all this
14 from construction sites that have either been at paving,
15 buildings, construction projects at those buildings? Is
16 that where all this material came from, from those
17 construction projects?

18 MR. MUNOZ: Well certainly, Mr. Jones, the
19 answer to that question is no. We've been working with
20 you, we've been working with your staff, we've been
21 working with our LEA.

22 The definition that you just described is not
23 the definition of C&D at this time, and it's not the
24 definition of C&D proposed in the regulations.

25 Part of the problem that we have is that we

1 have a CUP that lets us do certain things. We went
2 through a CEQA review that allows us to do certain
3 things. We have a letter from our LEA that says that
4 you can do those things. It's a vague area right now.

5 We encourage you to adopt something so that we
6 are all not stuck raising our hands wondering what the
7 rules are.

8 I can tell you that the materials that are in
9 that photograph are far less than one percent
10 putrescible, that 80 percent or more of them are being
11 diverted from our state's landfills, that they are
12 consistent with our CUP, that our LEA does not believe
13 that they are MSW, as you were told a moment ago by one
14 of our competitors, and that because this is more about
15 competition than it is about really meaningful health
16 and safety regulations at this point, that our LEA is
17 under tremendous pressure by our competition to
18 scrutinize us.

19 So we're being investigated literally on a
20 weekly basis, and we're being very careful about what's
21 going into our facility.

22 In fact, there was a couple of things going
23 into the facility from sources that the LEA said, you
24 know what, I think this is getting a little bit beyond
25 the window, and they asked us to stop accepting that

1 material and we did.

2 But until the regulations are adopted, we don't
3 know what the rules of the game are. We are at a point
4 though that it's fairly obvious where the regulations
5 are going. They are not going in a direction that
6 they're going to be meaningful for my client's business.

7 As a result, we are working with our LEA, we've
8 already prepared a draft RFI for a full transfer
9 processing facility because we're not going to be able
10 to really meaningfully take advantage of these
11 regulations being drafted, which I think is part of the
12 problem in the regulations.

13 You've got an industry -- an operator rather,
14 not an industry, that's giving you 80 percent or better
15 of recycling. If it was just MSW, if it was just the
16 same thing as a MRF, how come the MRF's are getting 37
17 percent best? This is different. It's a different
18 animal.

19 And we've tried very hard to work with you and
20 your staff to come up with regulations that address this
21 different animal. Unfortunately, I don't think the
22 regulations being proposed are going to assist my
23 client. Whether you, frankly, accept all of my comments
24 or not, we're still going to probably have to get a full
25 transfer facility type of a permit.

1 But for the benefit of the industry, for the
2 benefit of the State of California, and for keeping
3 materials out of landfills, I think it's incumbent upon
4 you at a minimum to take your staff's recommendation
5 today, because that is what's best for this industry and
6 for the state, even if it won't really be relevant for
7 my client.

8 Thank you.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you. And
10 we'll take a break and we'll be back at 3:15.

11 (Thereupon there was a brief recess.)

12 BOARD CHAIR MOULTON-PATTERSON: I'd like to
13 call the meeting back to order, please.

14 Thank you.

15 Mr. Jones, do you have any ex-parte?

16 BOARD MEMBER JONES: Yeah. Kelly Astor.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you.

18 BOARD MEMBER JONES: And I can't tell you what
19 I told him.

20 Denise Delmatier, Mark Aprea, I said hello to
21 the LEAs, and I think that -- oh, and to Judy Ware and
22 to Mr. Munoz.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you.

24 Ms. Peace.

25 BOARD MEMBER PEACE: No, I don't have any to

1 report.

2 BOARD CHAIR MOULTON-PATTERSON: I have none.

3 Mr. Medina.

4 BOARD MEMBER MEDINA: Chuck Mack and Bob

5 Morales of the teamsters. Mark Aprea, Patrick Munoz,

6 Denise Delmatier, Barry Broad.

7 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

8 BOARD MEMBER PAPARIAN: Yes, Madam Chair. All

9 regarding the last agenda item, Sean Gusman and Barry

10 Broad from the teamsters, Mary Shalenberger from Senator

11 Burton's office, Mark Murray from Californians Against

12 Waste, John Cupps, and Judy Ware.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you.

14 Mr. Washington.

15 BOARD MEMBER WASHINGTON: Yes, Madam Chair.

16 Mark Murray and Mark Aprea.

17 BOARD CHAIR MOULTON-PATTERSON: Okay, thank

18 you. We were in the middle of our public comments.

19 Again, please try and keep it at three minutes.

20 Everybody has been really good so far.

21 Greg Pirie of Napa County LEA, followed by Mike

22 Schmaeling of Santa Barbara County Environmental Health.

23 BOARD MEMBER JONES: Madam Chair.

24 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr. Jones.

25 BOARD MEMBER JONES: One other ex-parte was Mr.

1 Allegra who's an inert recycler. Sorry, I forgot about
2 him.

3 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
4 Pirie.

5 MR. PIRIE: Good afternoon, Greg Pirie, Napa
6 County LEA and also chair of the Enforcement Advisory
7 Council.

8 There's been a lot of discussion with the EAC
9 in general and also LEAs throughout the state. And as
10 far as I can tell there's not a real, real strict
11 consensus of which way to go, whether they want the regs
12 approved right now or not.

13 There's kind of two groups, that is there's one
14 that says, hey, we have a site in our jurisdiction, yes,
15 it's causing a problem, but there's really a hesitation
16 knowing that the implementation and enforceability is
17 really going to be difficult.

18 And then there's the other group who knows very
19 specifically that the implementation is going to be
20 difficult and they don't want 'em approved.

21 And in terms of Mr. Jones' proposal, just from
22 the Napa County LEA, I'm in favor of most of that.

23 One question. In terms of, to got a little
24 more specific. In terms of the fire prevention plan and
25 IIPP, was that specific to also put that into a

1 notification requirement, even that low, or also just
2 registration?

3 BOARD MEMBER JONES: Madam Chair, can I
4 respond?

5 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

6 BOARD MEMBER JONES: Thank you. I don't think
7 on the notification that you can include it because I
8 think all they can do is write you a letter telling you
9 they are going to operate as I understand it.

10 MR. PIRIE: Exactly.

11 BOARD MEMBER JONES: But it would be for the
12 registration. And that would be my intent that it
13 become part of the package that they have to turn in.

14 MR. PIRIE: Because some of the, you know,
15 difficulties that we've had is that the requirements,
16 especially with notifications is we'll get items placed
17 in there, but obviously we can't review 'em, because
18 they're placed in there, all you can do is say okay,
19 write a letter.

20 So if it is placed in registration it would be
21 great if there could be some kind of, you know, language
22 to where we could actually look at what they presented
23 and make a comment instead of just saying that we did
24 receive it. So that would be great.

25 And just in general, with enforceability

1 implementation, it would be great if you do go out for
2 another comment period and look at past LEA comments and
3 consider them as much as you can.

4 And if they do come to approval, through EAC
5 and all the LEAs we would definitely be willing to work
6 with you to be able to have that implementation work
7 with all of us throughout the state.

8 So thank you very much.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you.

10 We have Mike Schmaeling, Santa Barbara County
11 Environmental Health, to be followed by Kelly Astor.

12 MR. SCHMAELING: Good afternoon, Board members,
13 it's a pleasure to see you all again. Mike Schmaeling
14 with Santa Barbara County Environmental Health.

15 First off, I want to thank Allison
16 Spreadborough. Staff has really put forth a monumental
17 effort in the development of these regulations. She's
18 always made herself available, and when she wasn't she
19 got back to us right away. She's tried very hard to
20 appease everybody on a task that I would say is near
21 impossible to appease.

22 So I, first off, thank you very much, Allison,
23 it's been a pleasure working with you on these.

24 The LEAs need these regulations to give us the
25 tools that we need to complete our mission. We see it

1 as a vital tool that we have to have.

2 I still have several concerns with these
3 regulations; percent residual, tonnage levels, slotting
4 of tiers, and implementation schedules are the four
5 areas that I'd like to look at a little bit.

6 Percent residual. Get rid of the percent and
7 go to a flat weight. If a site is bringing in 999 tons,
8 what is that one percent residual as opposed to a site
9 that's bringing in a hundred tons, if that happens to be
10 the cutoff? Flat level would give us that ability to go
11 in there and say okay, that's what it is, that's what it
12 should be.

13 Tonnage levels. Mixed waste is quite a bit
14 different than an aggregate waste. I really appreciate
15 Mr. Jones' proposal in that he's looking at the inerts
16 as a separate waste stream and, therefore, we're going
17 to look at those separately than what we're going to
18 look at a mixed type C&D waste. I think that they need
19 to be looked at in a separate light.

20 I mean a hundred tons of paper is going to be a
21 huge mountain. A hundred tons of concrete is not going
22 to be blowing anywhere. So I would like to see that
23 they be looked at that way.

24 Tiers. I think the different tiers are a vital
25 tool that we need to have. One, it allows us a level

1 playing field that's very important. Small facilities
2 should be viewed and compared against other small
3 facilities, not a big giant facility.

4 And finally, the implementation. These
5 regulations have been bouncing all over the place.
6 We've seen 'em come back to you guys, I can't count how
7 many times. If they do not get passed today or if they
8 have to go back for additional review, and I understand
9 that we're getting down to the gun, we're going to need
10 emergency regulations. We need something that will
11 allow us the ability to oversee these facilities and
12 protect the health and safety and environment of our
13 constituents in our areas.

14 I think that concludes my comments. Thank you
15 very much.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you.

17 Kelly Astor, California Refuse Removal Council,
18 followed by Denise Delmatier.

19 MR. ASTOR: Thank you, Madam Chair and
20 members. Kelly Astor for the CRRC.

21 I also won't comment on what Mr. Jones and I
22 talked about at the break.

23 Let me say this. On March 7th the CRRC issued
24 a joint letter to you which sets forth our basic
25 position on this, which is essentially unchanged. I

1 propose in the balance of my testimony today to simply
2 highlight some of those key issues for us.

3 Today the Board is confronted with an important
4 decision that involves weighing environmental protection
5 on the one hand against the need or desire to promote
6 additional recycling opportunities on the other.

7 It's our position that these two goals are not
8 irreconcilable. As countless permitted recyclers have
9 demonstrated through many years of safe operation, we
10 can do both.

11 Our system of regulating these activities is
12 imperfect, but for now a full solid waste facility
13 permit represents the most comprehensive and effective
14 device available in terms of ensuring the basic level of
15 protection to the communities that host recycling
16 facilities.

17 Those seeking the right to conduct large scale
18 C&D recycling operations without a full permit
19 frequently complain that it's too difficult or too
20 expensive to obtain. These arguments completely
21 disregard the purpose of a full permit, to better
22 safeguard public health and safety. Inconvenience is
23 not a valid argument. If it were, the same point could
24 effectively be made with regard to solid waste
25 facilities generally. After all, sanitary landfills are

1 an equally vital and necessary waste management
2 component, but nobody is here arguing today to
3 deregulate them.

4 As we have repeatedly stated, the CRRC supports
5 a registration tier with a higher tonnage allowance for
6 inert materials, cured asphalt, concrete, and the like.
7 Because, by definition, they present a lower level of
8 threat to air and water resources.

9 The same cannot be said of C&D wastes as a
10 group. The mere fact that a load of materials may
11 originate at a construction site does not render its
12 contents inert.

13 And the basic flaw in these regulations is
14 their failure to adequately distinguish between inerts
15 on the one hand and C&D wastes generally. All are
16 lumped together based on the origin rather than the
17 content of the material.

18 In our judgment, that's wrong. We know it's
19 wrong because we see on a daily basis what actually gets
20 put into a construction box.

21 Advocates of a higher tonnage allowance would
22 have you ignore these facts. They adopt the
23 unprecedented view that C&D recycling is not simply a
24 means to an end, but an end in itself, which is to be
25 accorded a preference over other priorities. We

1 disagree.

2 While dozens of CRRC members have somehow
3 successfully obtained full permits, often without the
4 assistance of private consultants, we are still willing
5 to look at a reasoned approach to address the permit
6 streamlining issue.

7 Folks, this has never been an issue about the
8 haves and the have-nots. It's more an issue about the
9 haves and those that haven't tried or are unwilling to
10 try to secure a permit.

11 Permits are designed to protect air and water
12 quality. People seeking to avoid a full permit in our
13 judgement bear the burden of proving that it's
14 environmentally prudent to do so. They haven't met that
15 burden.

16 To summarize, a hundred tons per day is the
17 only appropriate standard for solid waste, and that
18 includes mixed C&D solid waste. We could support a
19 higher standard for inerts only recycling, but that's
20 not before you.

21 Scales should be required in these regulations,
22 regardless of the tonnage allowance. These are weight
23 based regulations, the only way to measure that is with
24 a scales requirement.

25 We also seek elimination of these "similar to

1 C&D" reference at Section 17381 of the regs.

2 Now, this was our presentation before hearing
3 Mr. Jones' substitute motion. In discussions with my
4 colleague Sean Edgar I can tell you that we are in a
5 position to preliminarily support that particular
6 motion.

7 We'd also like to obtain some clarification on
8 the point about plumbing waste and some other residuals,
9 because that goes to the definition I just cited to.

10 We want to make it clear that C&D like
11 materials is stricken, and that materials that
12 ordinarily attend construction and demolition projects
13 could be included.

14 Lastly, Republic Services has regularly
15 supported the idea of a three strikes requirement, we
16 think that has some merit and also should be considered
17 in the proposal.

18 Thank you very much.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
20 Astor.

21 Denise Delmatier, NorCal Waste Systems,
22 followed by Mark Murray.

23 MS. DELMATIER: Madam Chair, Denise Delmatier
24 with NorCal Waste Systems.

25 I'll be very brief. My fellow employee, Don

1 Gambelin I think did an excellent job in outlining the
2 relative risks associated with the staff proposal.

3 He inadvertently did not mention one item, and
4 that is we strongly support the Jones' proposal.

5 Thank you.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you.

7 Mark Murray of Californians Against Waste,
8 followed by Gary Liss.

9 MR. MURRAY: Madam Chair, members, Mark Murray
10 with the environmental group Californians Against Waste.

11 Here to support the compromised staff --

12 BOARD CHAIR MOULTON-PATTERSON: We have a new
13 toy up here but I don't know if that's it or not. I
14 don't think it's this, it must be in the mikes.

15 Sorry, Mark.

16 (Thereupon there was a discussion off the
17 record.)

18 MR. MURRAY: And that's the close of my
19 testimony.

20 BOARD CHAIR MOULTON-PATTERSON: We stopped the
21 clock.

22 MR. MURRAY: Well prior to that I was actually
23 feeling quite overwhelmed with the environmental love
24 that I was hearing today, the born again
25 environmentalists from the waste hauling industry and

1 our new environmental friends from organized labor. I
2 hope that we can count --

3 BOARD CHAIR MOULTON-PATTERSON: Could you turn
4 the mike back on? I guess none of them are on. Hello?

5 MR. MURRAY: Can you hear me okay?

6 BOARD CHAIR MOULTON-PATTERSON: Now I can,
7 thank you.

8 MR. MURRAY: Let me just --

9 BOARD CHAIR MOULTON-PATTERSON: We're going to
10 give you extra time due to technical difficulties.

11 MR. MURRAY: I'm not sure I'm going to need it
12 after the number of times that I've testified on this
13 issue.

14 So let me be clear that we are supporting what
15 we perceive to be initially a compromise in terms of the
16 staff recommendation, the motion that is before the
17 Board in terms of a tiered permitting system for C&D
18 that has a registration tier between 100 tons and 300
19 tons.

20 We are, as an environmental group we have had a
21 great deal of faith in the perspective that we heard
22 from the local enforcement agencies as well as your
23 environmental staff, and we feel that this package
24 strikes the appropriate balance between the need for
25 protection of public health and the environment and the

1 desire to increase opportunities for recycling C&D
2 material.

3 Right now C&D represents more than four million
4 tons of C&D in this state, that's more than twelve
5 percent of the state's waste stream. One of our primary
6 objectives here is to entice entrepreneurs to go after
7 this waste stream and get this waste stream recycled.
8 And right now that's not happening to the degree that we
9 would like it to happen.

10 In terms of the existing regulatory atmosphere,
11 obviously that's not working. The Waste Board, the
12 local enforcement agencies don't have the environmental
13 tools, the regulatory tools to go after the folks that
14 are operating outside of the rules.

15 Now the fact that folks are operating outside
16 of the rules is not a reason to change the rules, it's a
17 reason to enforce those rules.

18 And so we need this Board to provide the LEAs
19 with clear direction and the enforcement tools to go out
20 and do the enforcement job.

21 The tragedy of the Crippin fire is one that,
22 you know, nobody is happy about. But it illustrates
23 what happens when there isn't clear direction to local
24 enforcement agencies, and when the agencies don't have
25 the tools to go out there and do their job.

1 Folks were aware of that illegal disposal
2 facility. These regulations, no matter which version
3 were adopted, would have done nothing to change that
4 situation if people failed to act. And that was the
5 problem, people failed to act. They identified illegal
6 disposal and they failed to act.

7 We need to have some regulatory package so that
8 it's, nobody can hide behind the lack of clarity as a
9 reason for not acting in the future.

10 In terms of the proposal by Mr. Jones, there
11 are elements of that proposal that we think merit some
12 consideration. The idea of having the health and safety
13 provisions and, the worker health and safety provisions
14 as well as the fire suppression plan, those elements may
15 make sense, not just in these C&D regulations, but in
16 all solid waste regulations, and potentially even
17 composting regulations.

18 However, the meat of that proposal, the idea of
19 dropping the line from where folks would be required to
20 have a full solid waste facility permit to 100 tons
21 doesn't make any sense. Folks would not even bother to
22 go after the registration tier, instead they would just
23 declare themselves a transfer station.

24 The transfer station regulations for municipal
25 solid waste would be easier than the proposed

1 regulations under Mr. Jones' proposal.

2 So with that, we urge your support of the
3 primary motion and your rejection of the supplemental
4 motion.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
6 Murray.

7 We have Gary Liss, Independent Recyclers
8 Council and Industrial Carting, followed by Justin
9 Malan.

10 MR. LISS: Madam Chair, members of the Board,
11 thank you for the opportunity to speak once again.

12 I am here for the Independent Recyclers Council
13 of CRRRA, and Industrial Carting of Santa Rosa.

14 We are here once again to support staff
15 recommendation, to indicate that they've done a good job
16 in striking the balance, providing a compromise of the
17 different interests.

18 We would have appreciated the 50 percent
19 residue that a large group of independent recyclers and
20 environmentalists supported in December, but the 30
21 percent was a significant compromise that we were
22 willing to go along with.

23 Mr. Jones did quote me at the last meeting, my
24 statement about, "No rules now," and I think everyone is
25 here to agree we need some rules, and the Crippin fire

1 has highlighted that.

2 We do appreciate the Governor's support for
3 small business, and believe that this issue is not about
4 environment, it's about market share. It's about the
5 big haulers versus the little haulers. It's about
6 independent recyclers being able to expand in the
7 future. It's about increasing recycling in the future.

8 It's not about environment. Everyone here in
9 this room supports the environment. It's about where
10 the jobs will be in the future.

11 And the question is, for all those large waste
12 haulers that have testified here today, why aren't we at
13 50 percent recycling for C&D eleven years after AB 939
14 was adopted? They had their shot. They've had the
15 exclusive franchises, they've had the lock on this
16 industry for a long time.

17 Independent recyclers want to invest, but we
18 need some clear rules from the Board so that we know
19 that if there is an investment it will be maintained and
20 able to grow in the industry.

21 As far as public review and environmental
22 concerns, those things are done at the local level. The
23 Waste Board is not the only one working to protect the
24 public interests, local governments do that day in and
25 day out, water boards, planning departments. There's

1 innumerable agencies that are working to protect the
2 public health and welfare and environmental concerns.

3 It's about market share. Let's look for the
4 waste future, one of competition, not consolidation.
5 One that strives for the highest and best use of
6 materials, not for the least common denominator of ADC.

7 Thank you.

8 BOARD MEMBER JONES: Madam Chair.

9 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

10 BOARD MEMBER JONES: Just a comment. We're not
11 at 50 percent, we're at 48 percent as a state. And we
12 have an infrastructure that's been built and people put
13 to work because of the work of not only independent
14 recyclers, but of major corporations that have invested
15 in local communities. And I think 48 percent is nothing
16 to sneeze at.

17 I mean, you know, I see more creative bookwork
18 coming out of some of your members than I do out of this
19 industry. So just for the record, we're at 48 percent
20 because they were willing to make an investment, not
21 talk about making an investment.

22 MR. LISS: I was referring to the C&D where
23 we're not at 50 percent. I do applaud all the
24 investments that have been made in other areas of the
25 state, including those by the large waste haulers and

1 the small waste haulers and entrepreneurs in all aspects
2 of the business.

3 BOARD CHAIR MOULTON-PATTERSON: Thank you.

4 We have Justin Malan, CCDEH.

5 MR. MALAN: Madam Chair, Board members, thank
6 you for the opportunity. I know you're ready to hit the
7 road now, I'm sure you've had enough of C&D.

8 Just to try and clarify a couple of positions
9 from the local environmental health perspective.

10 Firstly, I think we say in all our
11 correspondence, we do not represent all the LEAs, we
12 represent the vast majority of them. But there are a
13 couple of LEAs that are not part of our association and
14 they speak for themselves.

15 We do try to represent a perspective from local
16 government in general, and from professional
17 environmental health specialists in general. So that's
18 where our comments are coming from.

19 You and Board members should have received our
20 March the 3rd letter where we discussed three points.

21 We support your motion. We support the
22 original motion on the table, and we said so in our
23 letter.

24 But most importantly, we support the adoption
25 of some regs that will clarify this issue for the

1 enforcement agency.

2 We will not fall on our sword over a hundred,
3 200 or 300 tons. We do not believe that's the crux of
4 the issue.

5 As Mark Murray said, we are pleased to see that
6 all of the sudden so many people have come out of the
7 woodwork and have been doing our job for us today, and
8 that's very gratifying.

9 Not to be too facetious, but I mean that is
10 often what the case is. Is that when there's a market
11 share to be gained, all of the sudden there's some other
12 interests that take hold of the debate.

13 We do believe that with the registration tier,
14 at anything from zero up to two or three hundred, and to
15 add Mr. Jones to, some of his provisions which we
16 believe are very, very worthwhile, we could have
17 certainly adequate enforcement of these C&D regulations.

18 And I think what we, what we alluded to in our
19 letter is that with clear mandate from this Board to the
20 LEAs and the local agencies, with a clear cutoff with
21 your load checking requirements, with explicit
22 directions on enforcement. And the enforcement for the
23 lower tiers could, are just as rigorous, they can be
24 monthly inspections, so you don't gain anything from
25 that perspective.

1 And I think that we will have a review of these
2 regulations which will be able to reflect on this
3 inventory that we're doing. And I'm very, very
4 comfortable that the original proposal, possibly adding
5 in some of Mr. Jones' recommendations, because we
6 support that, but we do not have explicit authority over
7 OSHA. We have regulations that deal with the referral
8 from an LEA to OSHA, and we will stand by that
9 obligation to refer to OSHA.

10 We cannot support a fire plan, per se. An LEA
11 is not qualified to determine whether a plan for fire is
12 adequate or not. But we can work with you and the fire
13 agencies to ensure that a plan is done, and that it's
14 current. And I think those are the appropriate
15 additional provisions in the regulations that could be
16 added.

17 I do want to just again stress that with the
18 regulations we can have adequate enforcement, we can
19 have monthly inspections, and I'm sure that you will
20 find in a year or two's time, when the dust has settled
21 and we've got the serious facilities under wraps, you
22 won't have anymore problems.

23 Thank you.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you.

25 BOARD MEMBER PAPARIAN: Madam Chair, could I

1 just ask a question?

2 BOARD CHAIR MOULTON-PATTERSON: Oh, I'm sorry,
3 Mr. Paparian.

4 BOARD MEMBER PAPARIAN: Yeah. The issue has
5 come up, if you have a facility under a registration
6 tier at 101 tons versus a facility under a full permit
7 tier at 101 tons, would there be any difference in
8 inspection frequency from the LEAs?

9 MR. MALAN: My understanding, Mr. Paparian, is
10 for the notification there would be, but not for
11 registration. For registration we'd have monthly
12 inspections. For full permit we have monthly
13 inspections. For registration I understand that's
14 dropped down to quarterly.

15 And in our letter to you we recommended that
16 for this interim period, for the first year prior to
17 reviewing these regs, so that we don't have to iron them
18 out completely, for the first year you may dictate that
19 everything be inspected for a year. But at this point
20 under both the two higher tiers, they have monthly
21 inspections, yes.

22 BOARD MEMBER PAPARIAN: Do you think the LEAs
23 would, in terms of possible enforcement actions, view
24 them any differently if they're a registration tier?

25 MR. MALAN: I don't believe so. You have

1 several LEAs here, I believe that they are directed to
2 inspect and there are monthly, an inspection is an
3 inspection.

4 The vast majority of inspections are done
5 unannounced, notwithstanding legislation to force us to
6 do them unannounced, they all are done unannounced.

7 There are just occasions when you have a
8 facility operator that's not physically there all the
9 time, you gotta give 'em a call and say we gotta get
10 through the gate. Or some military facilities, for
11 example, we need to give them notice to get on their
12 sites.

13 But the vast, vast majority of facilities are
14 inspected monthly and they will be the same on the two
15 higher tiers here.

16 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

17 BOARD MEMBER JONES: Thanks, Madam Chair. Just
18 a followup to Mr. Paparian.

19 Are you saying quarterly for the notification
20 or quarterly for the registration?

21 MR. MALAN: I believe that's what it is right
22 now.

23 Mark?

24 MR. DE BIE: The tier structure requires a
25 minimum of quarterly inspection for notification,

1 monthly for any facility, that would be registration
2 standardized and full.

3 BOARD MEMBER JONES: Okay. And to follow up
4 with Mr. Paparian's question, I think the inspections
5 being one issue, the other issues of site specific
6 conditions, which is something that the LEAs can put in
7 under full solid waste facility, or a full permit and
8 cannot put in under registration, correct?

9 MR. MALAN: That's correct. But Mr. Jones, I
10 think that's why we would be supportive of your
11 additional conditions that you listed in your counter
12 motion, because there are some provisions there that
13 under standardized permit, under any standard -- not
14 just a solid waste, any standardized permit, it's a
15 non-discretionary permit and we cannot add specific
16 permit conditions for that particular site.

17 Because of that, and because of a legitimate
18 concern of worker safety, OSHA, fire suppression, we
19 would support the addition of those specific elements
20 that you raised into this reg package. And I think that
21 addresses the legitimate public health and safety
22 issues.

23 We don't believe that the 300 or 100 tons is at
24 stake here. We don't really believe that's the issue
25 from a public health perspective. If we add those other

1 provisions that you've mentioned, we will take care of
2 those whether it's on a full permit, a registration,
3 standardized or whatever.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you.

5 Mike Hammer of Looney Bins, followed by Steve
6 Bantillo.

7 MR. HAMMER: Madam Chair, members of the Board.
8 I represent Looney Bins as well as the CMRA of Southern
9 California.

10 The fact of the matter is there's millions of
11 tons of C&D that are going to the landfill every year.
12 I do congratulate the state on achieving 48 percent
13 diversion. However, if we're going to reach 60 or 70
14 percent diversion, we have to capture the vast majority
15 of C&D debris that's currently going to landfills.

16 In order to do that we need more small,
17 medium-sized processors in this state. Right now
18 there's close to four million tons of C&D debris that's
19 currently going to the landfill. At a hundred tons per
20 day, you need almost a hundred new processors in order
21 to handle that volume of material.

22 You know, I'm speaking on behalf of Looney
23 Bins, but I'm also voicing, for future, small processors
24 that want to enter the market, that need to enter the
25 market for the State of California to handle the

1 recycling of all the C&D debris.

2 And so I don't want you to just think so what
3 can we do so that Looney Bins can be okay? You've got
4 to incentivize it for the future of recycling in this
5 state, not just accommodate the people that are the
6 flares right now.

7 You know the state, the Waste Board embarked on
8 this journey several years ago and came up with the
9 whole idea of the tiered regulations. Why? Because
10 C&D, true C&D was different than municipal solid waste.
11 That's the whole reason you started. Otherwise you
12 would have just left it under the transfer processing
13 regulations.

14 It was recognized as a conviction of this Board
15 that it should have a lower regulatory oversight because
16 it posed a lesser threat. And then that would, in turn,
17 incentivize the further recycling.

18 It was also a conviction of the staff that 750
19 tons per day was an appropriate upper level of a
20 registration tier.

21 Also, that state minimum standards, monthly LEA
22 inspections, one percent putrescible limits, processing
23 time limits, storage time limits were sufficient and are
24 sufficient to adequately protect public health and
25 safety.

1 It's a fallacy to look at the volume and say
2 that that's the issue that should be debated, and that's
3 what needs to be regulated in order to establish safety
4 standards.

5 The reason they had the Crippin fire was the
6 failure of enforcement. It wasn't a failure of the
7 proposed regulations, they would have been sufficient to
8 keep the Crippin fire from happening had they been
9 accepted and enforced.

10 Finally, it was a conviction of the Governor in
11 the state of the state to remove burdensome regulations
12 that negatively impact small businesses.

13 What happened since then is intense lobbying
14 from big business, and we've compromised. We saw big
15 pictures of piles and said, wow, that looks bad, let's
16 lower it to 500. Then we heard more, it's really
17 dangerous, it's really dangerous, though there's nothing
18 in the debris that has changed since then, then we
19 lowered it to 300 tons per day. And now we want to push
20 it further.

21 The fact of the matter is, if we lower it any
22 further from 300, small businesses are going to be
23 impacted. Right now we're barely making it. We're
24 having to subsidize our sorting division with our
25 hauling division because workers' comp has gone up, fuel

1 has gone up. I mean we're trying to hang on till
2 landfills go up so that we can stay in business. But
3 every fifty, hundred tons per day that you draw the line
4 for a full solid waste permit makes a difference.

5 And I would hope that after all the money that
6 we spent this several years, that the conclusion isn't
7 well, let's just treat 'em just like we do transfer and
8 processing regulations.

9 I urge you to vote with conviction and not
10 compromise today. Take 300 tons per day as the upper
11 limit.

12 Thank you.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you.

14 Stephen Bantillo, Construction and Demolition
15 Council, CRRA, followed by the last speaker, Sean Edgar.

16 MR. BANTILLO: Hi, Madam Chair, members of the
17 Board, Stephen Bantillo, Consortium Demolition Council.

18 I'd like to commend staff, Allison
19 Spreadborough in particular, on the tremendous job
20 developing a package that blends the concerns of the
21 various stakeholders.

22 On the hydrogen sulfide issue that's been
23 brought up, several jurisdictions outside of California
24 have actually banned dry wall from the landfill because
25 of the worker safety issues. The regulatory package

1 proposed by staff is another way of addressing this
2 issue through storage time requirements.

3 The package as proposed is a compromise, but it
4 does protect public health, safety, and the environment
5 which is what, I believe, we're all charged with.

6 The Construction and Demolition Council held a
7 workshop in San Diego last month on C&D programs and SB
8 1374. And we found that there was great interest in
9 developing construction and demolition programs across
10 the state but, in particular, the various jurisdictions
11 that attended the workshop in San Diego, we had over 110
12 attendees.

13 And with that interest in developing programs
14 comes an increased need for processing infrastructure
15 and capacity. Enough time has been spent developing
16 these regulations. It would be nice to see this
17 regulatory package in place when these programs come on
18 line.

19 The Construction and Demolition Council
20 supports staff's recommendation to adopt the proposed
21 regulations and negative declaration.

22 Thank you.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you.

24 MR. EDGAR: Good afternoon, Madam Chair and
25 Board members.

1 BOARD CHAIR MOULTON-PATTERSON: Sean Edgar.

2 MR. EDGAR: Long afternoon and I'll make just a
3 few brief comments to supplement my colleague, Kelly
4 Astor's, comments.

5 The CRRC is in full support for the substitute
6 motion offered by Board Member Jones.

7 As we've testified in the past, any company
8 that values the community, as many of the companies that
9 have come forward today, should not be afraid to go
10 before that same community to get a permit to operate.

11 We've had testimony that, from several
12 operators that we don't know if we could even get a use
13 permit to operate where we're operating now. That's
14 very discouraging.

15 We offer support for the substitute motion
16 because that package will bring a permit requirement for
17 major impact facilities, requiring them to have a local
18 land use approval.

19 We believe also that it's better health and
20 safety protection for workers and the community through
21 that CEQA review for facilities of a hundred tons a day
22 or greater.

23 We also believe that there's more regulatory
24 and community oversight via extending the public hearing
25 requirement that's required under AB 939 for local

1 planning purposes for any facility greater than 25
2 tons. So we believe that this public hearing
3 requirement, which is noticed and will be required for
4 any facility at 25 tons or less, is a positive
5 development, and we support that aspect.

6 We believe that one addition to the package
7 should be made consistent with our prior testimony
8 regarding phase-in. We believe that up to a five year
9 period would be excessive for these regulations, and we
10 support a two year maximum phase-in with any extensions
11 for compelling circumstances given by this Board, so
12 this Board would be in control of offering any
13 extensions to the two year phase-in.

14 Thank you for the opportunity to address you.
15 I'm happy to answer any comments you have may have.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you.

17 Mr. Medina.

18 BOARD MEMBER MEDINA: Madam Chair, I'd like to
19 call the question on the substitute motion. And in
20 doing so I just want to state that I'm not a believer in
21 regulatory tiers, I've stated that on many occasions,
22 based on my experience having served two terms on the
23 San Francisco Board of Permit Appeals where every entity
24 doing business in the city and County of San Francisco
25 is required to obtain a full permit. Whether it's a hot

1 dog vendor or a large restaurant, a builder of a single
2 family residence to a builder of large apartment
3 buildings, they need a full permit and were subject to
4 the same degree of inspection and enforcement.

5 I support a level playing field for all
6 businesses, the same degree of inspection and
7 enforcement.

8 The appropriate tonnage threshold for a full
9 permit is 100 tons per day. Where lesser degrees of
10 inspection and enforcement are required, there's more of
11 a risk that workers will be underpaid and exposed to
12 unhealthy and unsafe working conditions.

13 We need to move forward, we need to move the
14 regulations forward in order to safeguard health and
15 safety and the environment.

16 I support Board Member Jones' substitute
17 motion, and I see no instance, no instance where lower
18 regulatory oversight should be allowed. And I think
19 that we need legislation in the direction of correcting
20 the tiered system.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you.

22 Mr. Washington.

23 BOARD MEMBER WASHINGTON: Thank you, Madam
24 Chair.

25 A question to the second motion maker, Mr.

1 Jones. Before we vote on this, I had raised some
2 concerns about this issue at our January Board meeting.
3 I had amendments that would put the public in this
4 process, no matter what the tiers or no matter what the
5 permits are, and I wasn't allowed to take up my
6 amendments when this issue came up.

7 And so I have a question, Mr. Jones. Would you
8 add as a part of your amendments to have the C&D regs
9 include a requirement that the LEA hold a public hearing
10 prior to issuing a CD permit, a permit for CD
11 facilities?

12 BOARD MEMBER JONES: Yeah, I have no problem
13 with that. I don't know if it's LEAs or the city
14 planning would be my only question.

15 But yeah, I think it needs, I have no problem
16 with it being a requirement that there be a public
17 hearing at every one of these facilities.

18 BOARD MEMBER WASHINGTON: Thank you. Thank
19 you.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
21 Washington.

22 Before we go to the vote on the substitute
23 motion, I did want to say, somebody brought up emergency
24 regs, and if there are changes this Board would, I would
25 certainly call, be willing to call an emergency meeting

1 on April 9th so that we don't need emergency regs.

2 I would like to urge a no vote of Mr. Jones'
3 motion. I have staked my career on public safety. And
4 I like some of his suggestions, I cannot go for the
5 hundred tons.

6 As far as worker safety and the teamsters, as I
7 told Mr. Broad, my father was a teamster for 37 years, I
8 was a teamster when I was in college, I have been
9 endorsed by labor in every race I've ever had, I care
10 about labor, but I also care about a level playing
11 field.

12 I think the Governor appointed me to this Board
13 to help support small businesses, to promote recycling.
14 I want to give the LEAs every enforcement tool they
15 want.

16 I personally think we should be doing a lot
17 more enforcement and giving a lot more fines, whether it
18 be the big companies or the little companies.

19 And I really feel that we need to give our LEAs
20 clear direction so they can do their jobs.

21 And at that I would call for the question.

22 BOARD MEMBER JONES: Madam.

23 BOARD CHAIR MOULTON-PATTERSON: Oh, I'm sorry,
24 Mr. Jones.

25 BOARD MEMBER JONES: Okay. I don't know if any

1 other members want to speak on this thing.

2 I appreciate that it's tough coming up with a
3 substitute motion like that. I did make a clerical
4 mistake. My last add-back on the inert debris and, at
5 both aggregate operations and landfills, I think I
6 inadvertently said 7381, it's 73181.2. I know that's
7 written down on your papers, members, so just cross out
8 that two and make it a, cross out the first two and put
9 a one there, and then it would accurately reflective.

10 I have no problem with including the public
11 hearings. I do want to say one thing briefly before we
12 take that vote to put it into a perspective.

13 I don't think there's anybody in the room that
14 has ever done this for a living that would argue that a
15 load of material, load of C&D, absent inerts, is about
16 500 pounds a cubic yard loose.

17 At our regs for a facility that just took fifty
18 tons a day of C&D, at 500 pounds per cubic yard, that
19 would, over the course of a month, thirty days, that
20 would be 6,000 cubic yards.

21 As goofy as I am, I measured this room
22 yesterday, because everything in the garbage business is
23 about size. This room, including the place that Rick
24 Dunn is sitting back there, that little opening, the
25 2,880 cubic yards. From this wall to that right there.

1 So at fifty tons a day, unprocessed material stockpiled
2 for one month would be twice as big as the volume of
3 this room.

4 That's what this is about, folks. It's, it's,
5 it is about people that have invested money. But at
6 fifty tons a day stockpiled for two months, it is going
7 to fill this room twice at a --

8 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones, the
9 question was called for.

10 BOARD MEMBER JONES: Okay. I just, I passed
11 these out and I wanted to share it with the public so
12 they could put it into perspective.

13 BOARD CHAIR MOULTON-PATTERSON: Please call the
14 roll.

15 BOARD SECRETARY WADDELL: Jones?

16 BOARD MEMBER JONES: Aye.

17 BOARD SECRETARY WADDELL: Medina?

18 BOARD MEMBER MEDINA: Aye.

19 BOARD SECRETARY WADDELL: Paparian?

20 BOARD MEMBER PAPARIAN: No.

21 BOARD SECRETARY WADDELL: Peace?

22 BOARD MEMBER PEACE: No.

23 BOARD SECRETARY WADDELL: Washington?

24 BOARD MEMBER WASHINGTON: Aye.

25 BOARD SECRETARY WADDELL: Moulton-Patterson?

1 BOARD CHAIR MOULTON-PATTERSON: No. So the
2 motion failed. We'll call for the original question.

3 BOARD MEMBER PAPARIAN: Madam Chair, just to
4 clarify one thing.

5 BOARD CHAIR MOULTON-PATTERSON: Excuse me.

6 BOARD MEMBER PAPARIAN: I realize that the
7 motion I made was on the package, we have a second
8 motion on adopting the negative declaration.

9 I think that no matter what direction we go in
10 today we're going to need to adopt that motion, the
11 motion on the negative declaration, if I'm --

12 CHIEF LEGAL COUNSEL TOBIAS: So you may want to
13 just combine the neg dec motion and your current motion.

14 BOARD MEMBER PAPARIAN: Okay. Well I'll do
15 that for now. So they'll both be combined into the one
16 motion.

17 And I'll look to counsel if we -- well why
18 don't we just let it go at that for now.

19 CHIEF LEGAL COUNSEL TOBIAS: You'll need to
20 have your second amendment motion.

21 BOARD MEMBER PAPARIAN: Okay. So the motion is
22 for Resolutions 2003-227 and 2003-191.

23 BOARD CHAIR MOULTON-PATTERSON: And I second
24 it.

25 Please call the question.

1 BOARD SECRETARY WADDELL: Jones?

2 BOARD MEMBER JONES: No.

3 BOARD SECRETARY WADDELL: Medina?

4 BOARD MEMBER MEDINA: No.

5 BOARD SECRETARY WADDELL: Peace?

6 BOARD MEMBER PEACE: Bear with me, I'm the new
7 person on the Board.

8 I do agree with Chairwoman Moulton-Patterson,
9 with Justin Malan, with Steve Moise, with Don Avera,
10 with Mike Hammer, Gary Liss, Mark Murray, Mr. Munoz, Mr.
11 Schmaeling, our staff, that we need to approve the
12 regulations as they stand today. If we don't, we walk
13 out of here without any regulations.

14 I think we need to move forward. These
15 discussions have gone on long enough. Are they perfect?
16 No, they're not perfect. But from a lot of opinions
17 I've heard today, I don't think anybody can come up with
18 what everyone in this room thinks is perfect, so that's
19 why I think the regulations need to be passed today as
20 they stand so we have a starting point. There has to be
21 a starting point.

22 Once in place then we can go back and we can
23 address some of the problems and concerns brought up by
24 Board member Mr. Jones, and by some of today's speakers,
25 such as enforcement and worker safety, fire suppression,

1 public hearings, scales, load checking, financial
2 assurances, storage, fines.

3 At least when we leave here today we will have
4 regulations in place. I urge the Board to adopt the
5 currently proposed limit with a commitment to review
6 this limit as needed in the future.

7 So my vote is yes.

8 BOARD SECRETARY WADDELL: Paparian?

9 BOARD MEMBER PAPARIAN: Aye.

10 BOARD SECRETARY WADDELL: Moulton-Patterson?
11 Washington - I'm sorry.

12 BOARD MEMBER WASHINGTON: No.

13 BOARD SECRETARY WADDELL: And
14 Moulton-Patterson?

15 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay,
16 that motion did not pass.

17 We've been, as you know, the Waste Board has
18 been trying for nine years to develop C&D regulations.
19 I personally feel that we have an obligation to develop
20 regulations for this part of the waste stream, I don't
21 want to just see this blown up.

22 As I said, I'm willing to hold an emergency
23 Board meeting on April 9th in the afternoon if, you
24 know, we could give some direction so people could look
25 at it, so we could go out for another fifteen day

1 comment period.

2 We, Board members, we're running out of time,
3 and I think that that's why we're here is to create
4 regulations. And so I'm willing, I feel I've
5 compromised but, you know, we need regulations.

6 And, you know, I think we need to come up with
7 something to walk out of this room today, at least the
8 directions given that we can come up with something that
9 protects the public safety, protects public, protects
10 the workers' safety that we're all so concerned about,
11 but also our job to promote recycling and to have a
12 level playing field.

13 So, you know, I look to my colleagues, I think
14 we need to come up with something.

15 Mr. Jones.

16 BOARD MEMBER JONES: Madam Chair, just a
17 question before we start that of staff.

18 There was an LEA advisory out that has created
19 confusion. Our regulations today, existing regulations
20 require that all of these facilities have full solid
21 waste facility permits, is that accurate?

22 MR. DE BIE: The current regulations that you
23 refer to I take for granted are the transfer processing
24 regulations which would be the most appropriate to apply
25 to a site that is accepting C&D material.

1 If they received 100 tons per day, they would
2 require a full transfer processing solid waste facility
3 permit under the current regulatory structure.

4 BOARD MEMBER JONES: All right.

5 MR. DE BIE: Under these proposed regs, if I
6 may indulge, C&D waste would also require a full permit
7 at a hundred, it's just the degree that's being debated
8 at 300.

9 BOARD MEMBER JONES: Right. So today every C&D
10 facility in the state should have a full solid waste
11 facility permit if it's over a hundred tons a day and
12 not taking in source separated material.

13 MR. DE BIE: They should, but the LEAs followed
14 the Board's guidance that's incorporated in the advisory
15 and has been that message sent to them over the years
16 that they should refrain from doing so until the point
17 that the Board develops regulations.

18 BOARD MEMBER JONES: All right. But I just
19 think it's important to note that that LEA advisory that
20 went out to tell LEAs that we were developing regs
21 really was geared towards the inert facilities and not,
22 they were called the non-traditional which was the inert
23 facilities and not the C&D.

24 Go ahead.

25 MR. DE BIE: Allison is passing things to me,

1 and I do appreciate it, Allison. I do appreciate you
2 too.

3 Allison's reminding me that, and she knows this
4 because she did develop the transfer processing
5 regulations and there was reference in those actual
6 regulations that materials, including construction
7 demolition, would not be included, per se, under those
8 regulations, because we all anticipated we would come
9 back with additional regs, and that section is somewhere
10 in the definition section I believe. I'll depend on
11 Allison to find out.

12 But in addition to the advisory, I think the
13 point that staff wants to make is there's reference in
14 the transfer processing regs that C&D would be treated
15 differently than MSW. 17402.5 is the section that we're
16 referring to.

17 BOARD CHAIR MOULTON-PATTERSON: Mr. Washington,
18 did you have a comment? And maybe just one second just
19 to set the stage a little bit.

20 Maybe since we can't agree on a tonnage maybe
21 we should start with some of the other things. You
22 know, I thought there were some good suggestions.

23 I liked the fire concerns, I liked the workers
24 safety program, I certainly like the public hearings.
25 And what am I forgetting? Would there be some startup

1 time to get the permits if we changed it? I'd like to
2 see that in there.

3 And I'm sorry I interrupted you, Mr.
4 Washington. Go ahead.

5 BOARD MEMBER WASHINGTON: No, Madam Chair, I
6 was just going to make a motion on something here to get
7 something started around here, but I think that I'll
8 leave it to you to give that leadership, and I think
9 you, if you want to take 'em item by item and try to
10 move 'em out of here, that would be great.

11 BOARD CHAIR MOULTON-PATTERSON: Okay. Let's
12 take some straw votes on each of these because I don't
13 want to go home until we finish this, I think it's our
14 job no matter how late it is.

15 BOARD MEMBER WASHINGTON: Do we have any news
16 reporters in here? Oh, okay.

17 BOARD CHAIR MOULTON-PATTERSON: Are there any
18 objections to -- what was your wording, Mr. Jones, on
19 the fire plan? Fire plan in conjunction with LEA that
20 will be enforced by the LEA. Fire plan shall set
21 dimensions of both processed and unprocessed organic
22 piles not to exceed Board standards.

23 Does anybody have any objection to that? I
24 would think that would be something we would certainly
25 want to include.

1 Okay. Hearing no objection --

2 BOARD MEMBER PAPARIAN: Madam Chair, just to
3 clarify for the staff.

4 BOARD CHAIR MOULTON-PATTERSON: Yes.

5 BOARD MEMBER PAPARIAN: When we did the waste
6 tire monofill regulations we had LEAs pointing out to
7 us, I think we had one point out to us today that they
8 aren't fire experts, that they can certify that the
9 thing has gone through the fire experts, but I don't
10 think the LEAs want to be in the position where they are
11 certifying things that would normally be in the purview
12 of a Fire Marshal or fire department or fire chief.

13 BOARD CHAIR MOULTON-PATTERSON: Right, they
14 would work with them, is that what you're saying?

15 BOARD MEMBER PAPARIAN: Yes.

16 BOARD CHAIR MOULTON-PATTERSON: Yes, thank you.

17 BOARD MEMBER PAPARIAN: And that would then
18 provide consistency with what we're trying to do with
19 the waste tire monofill regulations.

20 MR. DE BIE: Madam Chair.

21 BOARD CHAIR MOULTON-PATTERSON: Mr. de Bie.

22 MR. DE BIE: Madam Chair, we've been, you know,
23 thinking about these regs for a long time, as you have.
24 And we'll bring to your attention so that you can use in
25 the debate that one, in the tire monofill regs

1 themselves there is language relative to a requirement
2 for a fire prevention control mitigation plan.

3 So one option could be to look at that language
4 and make it a requirement with the CDI site.

5 Also in these regs there is a requirement that
6 speaks to fire relative to C&D wood debris. It requires
7 the applicant to take into account things like fire
8 lanes and access to the piles and those sorts of things.

9 And that right now is only applicable to C&D
10 chip and grind facilities, but it could certainly be
11 carried over and applied to all CDI sites. So there's
12 things that are already in existence that we could copy
13 and paste and include in these without trying to craft
14 brand new language, for example.

15 BOARD MEMBER JONES: Madam Chair.

16 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

17 BOARD MEMBER JONES: As you're going through
18 this list -- I guess I shouldn't jump ahead, I'm
19 wondering if you're --

20 BOARD CHAIR MOULTON-PATTERSON: No, go ahead.

21 BOARD MEMBER JONES: I think one of the, we
22 hear Mr. de Bie talk about C&D waste and C&D debris,
23 which in a very literal world might mean two different
24 things.

25 C&D waste, if you've got the regs, is in the

1 very first section, it's very clear of where it comes
2 from. And I thought it was funny when I was at 300 tons
3 and saying it had to come from these sites, it was these
4 same folks that are opposed that couldn't deal with
5 that.

6 But anyway, so that's where this material comes
7 from. Under C&D debris on page four, and it would be
8 line 16. So it would be number -- well, line 16. It
9 says,

10 "C&D debris expressly excludes
11 commingled office recyclables and,
12 except as provided in subdivision
13 17381 (E) above, commingled
14 commercial solid waste and
15 commingled industrial solid waste as
16 they are defined in Title 27."

17 The problem, one of the biggest problems with
18 this thing is that our regs should exclude MSW from
19 coming to these kinds of facilities. But then we say
20 notwithstanding anything that we've said, you can go
21 ahead and bring 'em from anybody if it looks like C&D,
22 which is just two sections down.

23 I mean that's insanity. That's what amazes me
24 about that is we've tried to set up a regulation and
25 then we say just forget about everything we just said,

1 because if it looks like C&D at all, if it's got any of
2 the same constituents, then we're going to allow it.
3 How can we do that? How can we do that?

4 Mark, you gave me an example of a plastic doll
5 once that was made out of the same plastic as a PVC pipe
6 as being acceptable. I'm not sure I agree with that.

7 MR. DE BIE: We've attempted to firm up that
8 door that the Board did agree on opening by saying that
9 the C&D like material, and we don't actually use that
10 term. But it has to be similar to C&D debris, it has to
11 be separated for reuse, it has to be not hazardous, it
12 has zero putrescibles, and after you process it you
13 should not have any residual.

14 So it's got to be lumber, it's got to be metal,
15 it's got to be plastic. And you can't have anything --
16 no, it doesn't meet the definition, does not meet the
17 definition.

18 BOARD MEMBER JONES: According to them it does.

19 MR. DE BIE: That's them. It does not meet the
20 definition.

21 BOARD CHAIR MOULTON-PATTERSON: So what are you
22 proposing, Mr. Jones?

23 BOARD MEMBER JONES: The, earlier where I had
24 said that we need to change that language to be very
25 specific that all those things are excluded, okay, they

1 can't take waste.

2 And if they're going to take things from
3 traditional, I think I had said, you know, woodworking
4 shops, plumbing operations, electrical, metal, pottery
5 shops, those are all supposedly the types of things that
6 are part of the C&D waste stream. But clearly not just
7 a sentence that says it should be this. Because
8 everybody, everybody's running full MSW transfer
9 stations.

10 BOARD CHAIR MOULTON-PATTERSON: Mr. Walker, Mr.
11 de Bie, and Ms. Spreadborough -- Spreadborough, I'm
12 sorry, you just changed your name and I'm just getting
13 used to it. You've all worked so hard on this, how can
14 we allay Mr. Jones' fears? We want to come up with
15 something we can agree on.

16 MR. DE BIE: Certainly one option is to tighten
17 that language up in a similar way that Mr. Jones is
18 indicating by adding in specifically what is to be
19 included. We've indicated what's to be excluded, so we
20 could give by example things like Mr. Jones has
21 indicated.

22 And there's always room to clarify and even
23 further define what the regs require in the final
24 statement of reasons. So we can be very clear on what
25 the intent of that language is in there.

1 But certainly one way of doing it is to add in
2 not just what's excluded, what should not be included in
3 that, but what specifically is included.

4 BOARD CHAIR MOULTON-PATTERSON: Would you be
5 comfortable with that?

6 BOARD MEMBER JONES: If the rest of the members
7 would be comfortable, yeah. Because I got no problem
8 with them bringing wood or pipe. I got a big problem
9 when they're bringing the container outside.

10 BOARD CHAIR MOULTON-PATTERSON: Well, so could
11 you please work up some language when you bring it back
12 to us to meet that concern?

13 You know, since we're kind of going through
14 each item. Again, no one has a problem with Mr.
15 Washington's suggestion about public hearings, is that
16 right?

17 If I don't hear I'm assuming you don't have a
18 problem with it.

19 MR. DE BIE: Some clarification again.

20 BOARD CHAIR MOULTON-PATTERSON: Clarification.

21 MR. DE BIE: Mr. Jones made a statement about
22 whether it was planning or something, was it clarified
23 that it would be an expectation of the LEA to conduct
24 that hearing? I don't think we can require another
25 entity other than the LEA to do these --

1 BOARD CHAIR MOULTON-PATTERSON: No, the LEA, is
2 that right, Mr. Washington?

3 BOARD MEMBER WASHINGTON: That's correct.

4 BOARD CHAIR MOULTON-PATTERSON: Okay. So we've
5 got that settled.

6 In your plan did you have a worker safety
7 program that you had outlined? I thought you did that
8 when you did it verbally, but I don't --

9 BOARD MEMBER JONES: That's with the fire
10 plan. When you were talking about the fire plan it was
11 part of that same thing.

12 BOARD CHAIR MOULTON-PATTERSON: Okay.

13 BOARD MEMBER JONES: Injury, illness and
14 prevention plan.

15 BOARD CHAIR MOULTON-PATTERSON: Is there
16 anything we can do, the teamsters had informed me
17 something about the, I can't remember the word now, the
18 word, that wood, the treated wood that they were worried
19 about.

20 MR. DE BIE: Oh, treated wood is not allowed to
21 be processed at these sites.

22 BOARD CHAIR MOULTON-PATTERSON: Okay, so we
23 want to make that clear.

24 MR. DE BIE: It's considered exclusively
25 excluded, so if it was found on site they would be in

1 violation and it would be noted by the LEA that they
2 need to stop whatever they're doing that allowed that
3 material to show up on site.

4 BOARD CHAIR MOULTON-PATTERSON: Okay. And the
5 unannounced random inspections, that's already, that's
6 in the regs?

7 MR. DE BIE: That's not in the regs. That's a
8 common practice, as the LEAs have indicated, which is
9 just following the Board's guidance on how they're to do
10 that.

11 BOARD CHAIR MOULTON-PATTERSON: All right.

12 MR. DE BIE: Certainly an option is to specify
13 that in regulation that the Board's expectation is that
14 inspections should be unannounced and randomly
15 scheduled.

16 BOARD CHAIR MOULTON-PATTERSON: Okay. If we
17 can agree on a tonnage, Mr. Paparian, you had some
18 suggestion about a phase-in period?

19 BOARD MEMBER PAPARIAN: Yeah, regardless of the
20 tonnage, I think that one of the things we want to make
21 sure we do is we don't, make sure we don't do is put
22 people out of business inadvertently.

23 If you had a timeframe, for example. If you
24 just passed the regulations at a new tonnage level, I
25 think people would be automatically required to get that

1 new permit within six months, whereas it might take them
2 a while to accomplish that.

3 I think Mr. Edgar in his testimony addressed
4 this issue, and I think he had a reasonable approach
5 which was two years to get the permit, and I would add
6 as long as they apply for the permit within six months
7 of the effective date of these regulations and are, you
8 know, continuing to pursue obtaining that permit.

9 And I think he also suggested that, you know,
10 if there are circumstances beyond the control of that
11 applicant, that they could get extensions as long as
12 they were continuing to pursue that permit. And those
13 extensions would in no event be more than five years.

14 I think I'm seeing a nod that -- yeah.

15 BOARD MEMBER PEACE: Can I also say something?

16 BOARD CHAIR MOULTON-PATTERSON: Yes, Ms. Peace.

17 BOARD MEMBER PEACE: When these regulations go
18 out, they finally go out, would we put like even a
19 hotline number on there or something? Is there
20 somewhere these people can call so they know how to get
21 started in this process? If there's a question there's
22 someone they can call to get some advice.

23 BOARD CHAIR MOULTON-PATTERSON: Good point.

24 MR. DE BIE: I recall a former Board member who
25 used to sit in a chair very similar to yours, Ms. Peace,

1 directed staff that we would provide as much assistance
2 as we could to people getting through this process.
3 Certainly a hot number is something that we have not
4 done because they --

5 BOARD MEMBER PEACE: Just a number on there if
6 they had a question.

7 MR. DE BIE: They really need to go through
8 their local enforcement agency to really get the process
9 going. But we're ramping up to the inventories part of
10 it to identify the number of sites out there and where
11 they are, and working with those LEAs through training
12 and extending that out to operators.

13 So we fully expect to ramp up and do a full
14 court press to educate people, to get them through the
15 process as quickly as possible.

16 BOARD MEMBER PEACE: Thank you.

17 BOARD CHAIR MOULTON-PATTERSON: Okay. Were
18 there any other concerns before we talk about the
19 tonnage residual?

20 Mr. Paparian and then -- oh, Mr. Jones put on
21 his light first.

22 BOARD MEMBER JONES: No. No, that's fine.

23 BOARD CHAIR MOULTON-PATTERSON: I'm going to go
24 by the lights. I've been fighting for this thing for
25 two years.

1 Mr. Jones and then Mr. Paparian.

2 BOARD MEMBER JONES: Sorry, Mike. Anyway, on,
3 I need to, I think this is critically important. Under
4 17381 (V) (U), it's page six where we talk about
5 processing, everybody that says that they're a processor
6 under these regs, it's pretty amazing because all they
7 have to do is transfer, they don't have to recycle a
8 pound of this stuff.

9 But if they are processing we need to, I mean
10 the controlled separation, recovery, volume reduction,
11 recycling, including but not limited to organized,
12 manual, automated, mechanical, the use of vehicle
13 spreading.

14 Are you trying, is there a special designation
15 with somebody that's called a processor as opposed to
16 just a transfer station which a lot of them probably
17 will be?

18 Because if it's important, somewhere in here
19 you've got to add chip, grind, bale. Because they can
20 just move this around with their foot and be in
21 compliance.

22 MR. DE BIE: Right. There's sort of a stepped
23 approach relative to processing. Certainly these regs
24 would not disallow someone from just wholesale transfer,
25 it wouldn't disallow that. But it does indicate what

1 processing is, and then later that is linked to the time
2 requirement for processed or unprocessed material on
3 site.

4 There's a statement relative to all of the CDI
5 sites that a pile received needs to be processed, put
6 through that description within fifteen days. And then
7 it adds to that, processed to the level, using this
8 definition, where the material is ready for resale or
9 reuse. So just pushing it around with their foot would
10 not constitute getting that material ready for resale or
11 reuse.

12 So if there's something that's added once you
13 get into the description of facilities and expectations
14 for each that further defines how much processing is
15 processing.

16 BOARD MEMBER JONES: Does it create a problem
17 to say, to add that processing, besides those things,
18 includes either grinding, chipping or, you know,
19 chipping, grinding, shredding, and baling?

20 MR. DE BIE: Includes but not limited to?

21 BOARD MEMBER JONES: The problem is I really
22 think you're going to get people kicking this stuff
23 around, Mark. I mean there's nothing in here that
24 differentiates a processor from a regular transfer
25 station. So let's, if they're going to process then

1 let's put the stuff in that you need to do to process.

2 If you're going to just, you know, I mean if
3 we're going to fool ourselves, then fool ourselves. But
4 let's be honest about it.

5 Members, I would hope that you'd support adding
6 these things. Right now the way this is written I think
7 you could walk up and kick the stuff with your foot and
8 be in compliance because you were processing, you know,
9 especially if you picked something up from it, then
10 you'd be sorting.

11 MR. DE BIE: I think the only concern is that
12 we don't over limit the, you know, the type of
13 processing that might occur on site.

14 We're all aware that one level of processing is
15 to dump it on a pad and hand sort it out and create
16 segregated piles. So I don't know if the examples that
17 you're indicating would capture that kind of situation.
18 We, you know, that is legitimate processing.

19 So I think we can look at further defining
20 processing. I think we would be cautious in that we
21 don't describe it to the point where certain kinds of
22 activities are deemed not to be processing when in
23 reality they are.

24 BOARD MEMBER JONES: But the holding times are
25 different.

1 MR. DE BIE: They are.

2 BOARD MEMBER JONES: Exactly.

3 MR. DE BIE: They are quite different.

4 BOARD MEMBER JONES: I think then if they're
5 not comfortable with this, then come up with something.
6 Because to give somebody more time because they say
7 they're a processor, to create a bigger pile, without
8 having a clear definition of actual activity, you know,
9 I mean real results have to come from it, we can't do
10 that.

11 MR. DE BIE: Okay. I think we can certainly
12 look at adding activity language to processing to
13 indicate the kind of activity that should be expected on
14 site when processing is occurring.

15 BOARD MEMBER JONES: I had two more, but if you
16 want Mr. Paparian to do it I'll wait.

17 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian --
18 why don't you finish and then we'll go to Mr. Paparian.

19 BOARD MEMBER JONES: Thanks, just two more
20 quick ones.

21 On that 17381 1.1 (1) (A) where we had in there
22 that everything had to be, you know, sourced out as a
23 specific item, and then we get through telling 'em that,
24 and then we say notwithstanding that you can commingle
25 metal, cardboard, and lumber. Why? I mean I don't get

1 that.

2 MR. DE BIE: It was based on comments that we
3 received about the, sort of the nature of the material,
4 and what is the typical scenario of what gets thrown
5 into what bin. So there was added flexibility in that
6 area.

7 Originally we started with everything needed to
8 be in its own separate unique bin, metal in one, wood in
9 another, cardboard in a third. There were a series of
10 commenters that said that would be impossible to do and
11 would limit anyone from achieving recycling center
12 status. And so there was flexibility added in as the
13 regs developed. And so the flexibility that you point
14 out is allowing bins with just metal, wood, and
15 cardboard.

16 BOARD MEMBER JONES: To be considered a
17 recycling center?

18 MR. DE BIE: If a facility received a bin that
19 included those three materials mixed in one bin, they
20 could continue to be deemed a recycling center.

21 BOARD MEMBER JONES: Would it have to come from
22 an operation that did pavement, industrial, commercial,
23 or residential? Like you're --

24 MR. DE BIE: Construction and demolition, yes.

25 BOARD MEMBER JONES: Yeah. Okay. So the only

1 way they can bring that material in is if it's C&D?

2 MR. DE BIE: Yes.

3 BOARD MEMBER JONES: Under this recycling
4 that's commingled?

5 MR. DE BIE: It has to be C&D overall, and then
6 it has to be in a bin that only contains those three
7 types of materials.

8 BOARD MEMBER JONES: That amazes me because, if
9 you remember, our first compromise was 300 tons with 20
10 percent residual if they brought it from these
11 facilities, and they all objected to it, and now I guess
12 it's okay.

13 Go ahead. And then my last one, Madam Chair.

14 BOARD CHAIR MOULTON-PATTERSON: Yes.

15 BOARD MEMBER JONES: And this is really a
16 question, I don't get this. 17381.2, we had made a, and
17 maybe this covers it in broad language. But we had made
18 a clear distinction that stockpiles of materials at
19 permitted landfills and at aggregate operations would
20 not be limited, you know, wouldn't be part of that limit
21 because they use that material on site.

22 And then I saw it stricken out in your, on page
23 10-10 where you show the tier placements, and you've got
24 in the first one, "Not subject to the article inert
25 debris recycling centers," but then you cross out the

1 very people we're talking about.

2 MR. DE BIE: I believe our rationale for
3 putting it in and taking it out later was the
4 realization that that kind of activity at a solid waste
5 landfill should be covered by the solid waste landfill
6 permit, and so we didn't need to have language in here
7 specifically regarding that kind of activity at a solid
8 waste landfill.

9 BOARD MEMBER JONES: But what about at an
10 aggregate place? I mean the big issue here was
11 aggregate mines that are mining virgin material also
12 having a C&D, I mean an inert operation, and the Board
13 all supported that when we put that in, and now it's
14 out?

15 MR. DE BIE: That's still in.

16 BOARD MEMBER JONES: That's still in?

17 MR. DE BIE: Yes.

18 BOARD MEMBER JONES: Okay. As long as it's in.

19 MR. DE BIE: Yeah. And I think we also go
20 beyond that if, in phase two there's language about --
21 well maybe in here. About if you're a processor at an
22 engineered fill that you're, you know -- all right,
23 sorry, strike that.

24 BOARD MEMBER JONES: Okay. Thank you.

25 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

1 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

2 There's a couple of other enforcement items and
3 other items that came up during the discussions of these
4 regs where I think, you know, we talked about, you know,
5 perhaps looking at some of these items in these regs but
6 recognizing that they could be applied and should be
7 applied to other facilities as well.

8 And among these things were a mandatory minimum
9 fine schedule for violations, something like at least a
10 hundred dollars a day per violation.

11 Something like violation of tonnage thresholds.
12 If they, if there's a violation of a tonnage in a
13 permit, that the minimum fine would be the tipping fee
14 that was charged in acceptance of that tonnage.

15 I think at, in one meeting I remember talking
16 about whether there should be a cease and desist order
17 if there are more than, I think Mr. Aprea came up with
18 three violations of state minimum standards.

19 And finally, and this last item may not be
20 quite right for the regulations but something that we
21 should pursue in any event I think for all facilities,
22 and that would be a program of OSHA cross-training of
23 our LEA folks.

24 I think we heard from the LEAs that if they see
25 something that they know to be an OSHA related issue,

1 they know they're supposed to call OSHA, but I'm not
2 sure we provide the training opportunities to ensure
3 that the LEAs know how to spot these things that might
4 be OSHA related issues. So some cross-training in OSHA
5 issues so that they're better able to identify those
6 things which could be OSHA problems I think would be
7 quite appropriate.

8 BOARD CHAIR MOULTON-PATTERSON: Was that it?

9 BOARD MEMBER PAPARIAN: Yeah.

10 BOARD CHAIR MOULTON-PATTERSON: Comments from
11 staff?

12 MR. DE BIE: Let me take the OSHA one first.
13 We have conducted and will continue to conduct training
14 between the Board staff, LEAs, and OSHA. In fact, at
15 the last LEA conference there was a presentation by OSHA
16 to that group of Board staff and LEAs. So we'll
17 continue doing that.

18 BOARD MEMBER PAPARIAN: I think where some of
19 us would like to go with that is assuring that all LEAs
20 do receive that training so it's not just those who
21 happened to be at that conference and then happened to
22 attend that workshop, but so all of them have that in
23 their portfolio.

24 MR. DE BIE: Certainly it's a bit stronger than
25 we're used to putting in in terms of required training

1 of LEAs, but we can certainly look at that. I'll need
2 to confirm with, you know, our training group and Sharon
3 Anderson with the LEA evaluation, but we can look at
4 that.

5 Relative to enforcement generally, I think
6 there is flexibility to add in more prescriptive
7 enforcement requirements relative to certain kinds of
8 sites. So I think, you know, certainly that could be
9 added to this reg and not added to the enforcement
10 regulations as they stand on their own.

11 I think setting out fines becomes a more
12 difficult matter. Statute talks about fine levels, it
13 talks about major and minor fines and those sorts of
14 things. So we would need to make sure that we're
15 consistent with statute in that regard in terms of
16 actually identifying, you know, dollar amounts.

17 I think staff would suggest that if a need for
18 increased enforcement was deemed necessary in these
19 regs, that it would be focused on specific situations,
20 for example, pile size. If there was an exceedance in
21 the pile size that the LEA would be required to take
22 specific enforcement actions, cease and desist, you
23 know, require them to stop accepting material, require
24 them to, you know, get the pile down within X amount of
25 time, fifteen days, thirty days, that sort of thing.

1 But still leave open the ability of the LEA to assign
2 the actual penalty.

3 And I think we could even look into adding
4 language that an exceedance of a pile should be
5 considered an imminent threat, and bring that aspect
6 into the discussion which then allows the Board to take
7 directed action, if necessary. As well as sets up a
8 scenario where the LEA could direct cleanup and, you
9 know, have the ability to charge back to the owner
10 operator for that.

11 So certainly there are things that we could
12 include. I'm trying to maybe indirectly maybe steer
13 away from the dollar amount aspect, but I think we can
14 prescribe certain steps and actions expected of the LEA
15 in certain scenarios.

16 BOARD CHAIR MOULTON-PATTERSON: I'd certainly
17 like to see the Cal OSHA cross-training be in there. I
18 think this is a, you know, a Board decision. I think
19 there's probably four of us up here at least, if not all
20 six that would like to see that in. And you know, we're
21 not going to get to see these again so I think it's
22 important we get some closure, Mr. de Bie.

23 MR. DE BIE: I missed it, sorry.

24 BOARD CHAIR MOULTON-PATTERSON: I said that I
25 think it's real important that we get in this training

1 with Cal OSHA, and I think that at least four Board
2 members up here, probably all six of us agree with that.
3 And since we're not going to get to see 'em, you know,
4 this is going to be an up or down thing in fifteen days.
5 And I think we need assurances that we're not going to
6 just ask Mrs. Anderson about this, that we're going to
7 put it in.

8 MR. DE BIE: We will put something in the next
9 version of the regs relative to required training of
10 LEAs on OSHA requirements.

11 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
12 you.

13 BOARD MEMBER PAPARIAN: Madam Chair, if we're
14 not doing the fine schedule on this one I do think we
15 need to pursue that.

16 BOARD CHAIR MOULTON-PATTERSON: I do too.

17 BOARD MEMBER PAPARIAN: I think that one of the
18 things that has been pointed out quite well by some of
19 the participants in this process is that there's a
20 perception that we are somewhat lax in enforcement. And
21 I think by beefing up our enforcement across the Board
22 with some minimum fine schedules and some implications,
23 if you violate state minimum standards or terms and
24 conditions a certain number of times that would be
25 appropriate.

1 BOARD CHAIR MOULTON-PATTERSON: I would agree,
2 and I'd like to see that in.

3 BOARD MEMBER PEACE: I just want to say that I
4 agree too. I don't think we should be singling out just
5 the C&D people that we're going to do fines and that
6 sort of thing, that strong enforcement needs to be
7 across the board.

8 BOARD CHAIR MOULTON-PATTERSON: I agree.
9 Okay. Thank you. Okay.

10 We've put in a lot of enforcement pieces and
11 now we're going to have to get to the hard part again.

12 And I would just again sincerely ask my Board
13 members to be able to agree on something that probably
14 none of us are 100 percent happy with, but that we do
15 agree on a number. And I'm opening it up to Board
16 members to throw it out.

17 BOARD MEMBER WASHINGTON: Madam Chair, 150
18 tons.

19 BOARD CHAIR MOULTON-PATTERSON: With what?

20 BOARD MEMBER WASHINGTON: With a 30 percent
21 residual.

22 BOARD CHAIR MOULTON-PATTERSON: Any other
23 comments? Any other suggestions? Thank you, 100 and --

24 BOARD MEMBER PAPARIAN: Madam Chair.

25 BOARD CHAIR MOULTON-PATTERSON: Yes.

1 BOARD MEMBER PAPARIAN: I was just going to
2 suggest starting at maybe splitting the difference here,
3 200 tons. We were at 500 tons not too long ago, but 200
4 tons and 50 percent.

5 BOARD MEMBER WASHINGTON: Teamsters says no.

6 (LAUGHTER.)

7 BOARD CHAIR MOULTON-PATTERSON: What about 175
8 tons at 40 percent? That seems to me to be splitting
9 the difference.

10 Mr. Jones.

11 BOARD MEMBER JONES: Madam Chair, I can support
12 the 150 tons with the caveat that notification goes from
13 zero to 25, registration from 26 to 150, and that our
14 storage -- and then full from 150 up; that our storage
15 be 600 tons unprocessed organics, 1,200 tons unprocessed
16 organics. And when I say organics I mean in the wood
17 waste fraction, the carbon fraction; 3,000 tons of
18 unprocessed inert. And I think our regs show inert as
19 being 1,500 tons a day, Mark? Inert only was 1,500 in
20 this proposal?

21 MR. DE BIE: That's the cutoff between
22 registration or full.

23 BOARD MEMBER JONES: So I'd say 1,500 up to
24 inert only, that's type A inert only. And then 5,000 or
25 ten -- actually it could be 20,000 tons of that material

1 processed. And I could, I could vote for that. That's
2 a big walk for me.

3 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian,
4 before I call on you I'm going to call a five minute
5 break for our court reporter.

6 (Thereupon there was a brief recess.)

7 BOARD CHAIR MOULTON-PATTERSON: I'm going to
8 start at this end.

9 Mr. Washington, ex-partes.

10 BOARD MEMBER WASHINGTON: Thank you, Madam
11 Chair.

12 Mr. Barry and Mr. Aprea, Aprea -- Mark Aprea.

13 MR. APREA: Thank you, Mr. Washington.

14 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

15 BOARD MEMBER PAPARIAN: Thank you. I spoke
16 with Mark Murray from Californians Against Waste.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you.

18 Mr. Medina.

19 BOARD MEMBER MEDINA: Mark Aprea, Barry Broad,
20 Denise Delmatier, and Sean Edgar.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you. I
22 had none.

23 Ms. Peace.

24 BOARD MEMBER PEACE: I spoke with Mark Murray
25 from Californians Against Waste.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you.

2 Mr. Jones.

3 BOARD MEMBER JONES: Thanks, Madam Chair. Mr.

4 Morales, Mr. Aprea, Mr. Cupps, Mr. Broad, Mr. Edgar, and

5 I think that was it. Oh, and Mr. -- Fresno County

6 C&D -- Kroker, Mr. Kroker, sorry.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you.

8 Thank you.

9 Mr. Paparian had has on his light. Oh, did you
10 have on your light that you wanted to speak?

11 BOARD MEMBER MEDINA: Yes.

12 BOARD CHAIR MOULTON-PATTERSON: Thanks. Mr.

13 Paparian and then Mr. Medina.

14 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

15 And you know, we were, we were way up there
16 before, we were at 750 tons I think at one point, we
17 were at 500 tons I think at one point, we were at 300
18 tons. And I, you know, I, you know, I compliment the
19 industry on their ability to lobby us down on this
20 issue.

21 I'm wondering, Mr. Jones, just in the spirit of
22 harmony I'll offer this up. You know, the Chair
23 suggested 175 tons which is kind of more than halfway
24 between the 300 and the 100. You've gotten most of what
25 you want, in fact all of what you wanted on your list

1 besides the tonnage with the last minute list. You've
2 gotten a lot here.

3 Can you go for 175 and 40 percent?

4 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
5 you. I'm going to, we're going to take a straw vote on
6 these in a moment, but Mr. Medina had on his light.

7 BOARD MEMBER MEDINA: Thank you, Madam Chair.

8 I just wanted to ex parte Mr. Kroker and Mr.
9 Morales as well.

10 And next we'll hear 190, 200, 250, and so on.

11 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

12 BOARD MEMBER JONES: Thanks, Madam Chair.

13 Just one thing that Mr. Kroker brought up to me
14 and it was my mistake, on the inert inert, the A, to get
15 a grinder onto a facility they need to have material.
16 So I would change my suggested unprocessed stockpile to
17 45,000 tons if they have processing equipment or, you
18 know, a contract to bring a processor on site that
19 travels around mobile. That's the only way that they're
20 going to get, be able to get that in there. And he's
21 actually right. But I'm talking inert inert.

22 And then as far as Mr. Paparian's little thing,
23 I know you're going to take a straw vote, but he talked
24 about 750, 500, 300, he forgot his proposal of a
25 hundred. So --

1 BOARD MEMBER PAPARIAN: That's very good, Mr.
2 Jones but, you know, can we try to get some harmony
3 here? I mean you've gotten most of what you want.

4 BOARD MEMBER JONES: This is not about me, Mr.
5 Paparian. I know it's turned into that with some, but
6 it's not about me.

7 And I think the harmony at 150, as Mr.
8 Washington said, makes, that's a pretty big leap for me.

9 BOARD CHAIR MOULTON-PATTERSON: Well, we were,
10 a lot of us were at a lot of different numbers. At one
11 time weren't you at 300, Mr. Jones?

12 BOARD MEMBER JONES: I was there twice, Madam
13 Chair.

14 BOARD CHAIR MOULTON-PATTERSON: Yeah.

15 BOARD MEMBER JONES: And nobody, none of those
16 folks supported the conditions.

17 BOARD CHAIR MOULTON-PATTERSON: Okay. Before
18 we take a straw vote, I'd like to ask staff, how long
19 can the material stay on site?

20 MR. DE BIE: If we're talking about CDI
21 material, and I think that's the focus here, the
22 material can only remain on site unprocessed for fifteen
23 days. After fifteen days the LEA can deem it to be
24 illegally disposed.

25 Once it's processed, CDI material can be on

1 site for one year as it's processed. And that, again
2 it's processed to the level of available for resale or
3 reuse. So that's a pile of lumber, a pile of metal, a
4 pile of cardboard, you know, separate segregated piles
5 that can remain for one year.

6 There is a maximum amount of material that can
7 be on site at any one time, and that's taking your tons
8 per day and calculating by thirty days. So once you
9 reach that limit you can't take anymore material on
10 site.

11 BOARD CHAIR MOULTON-PATTERSON: Okay.

12 MR. DE BIE: There is a maximum amount.

13 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
14 you.

15 Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Again, a lot of what's
17 in here already reflects a lot of compromise and give,
18 and I think that what we've done today by Mr. Jones'
19 list, we added back the 17381 (E) (3) per his request.

20 Per Mr. Jones' request we removed the 17381.1
21 (1) (A).

22 Per Mr. Jones' we do the 17381 (V) (U).

23 Per Mr. Jones' request we delete item 17381 (D)
24 (3).

25 Per Mr. Jones' request we add those things up

1 in that first paragraph.

2 Per Mr. Jones' request we deal with processed,
3 we deal with unprocessed, we deal with processed
4 organics.

5 We bring down the tiers to 25 tons for the
6 notification.

7 You know, again Mr. Jones, in the spirit of
8 harmony here on the Board, the Chair suggested 175 with
9 40 percent, can we go with that? You got most of what
10 you wanted.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
12 Paparian.

13 And why I said a straw vote is I think that's
14 what we have to have. Ms. Tobias has ruled before that
15 either the chair can give direction or we can do a straw
16 vote, is that correct?

17 CHIEF LEGAL COUNSEL TOBIAS: Yes.

18 BOARD CHAIR MOULTON-PATTERSON: Okay. I'd like
19 to have the roll called on, for the tonnage, 175 tons at
20 40 percent. This is a straw vote.

21 BOARD SECRETARY WADDELL: Jones?

22 (No response.)

23 BOARD SECRETARY WADDELL: I'm sorry did you --

24 BOARD CHAIR MOULTON-PATTERSON: He held, you
25 can come back to him.

1 BOARD SECRETARY WADDELL: Medina.

2 BOARD MEMBER MEDINA: Same as Jones.

3 BOARD CHAIR MOULTON-PATTERSON: Come on, you
4 guys. Okay.

5 BOARD SECRETARY WADDELL: Paparian.

6 BOARD MEMBER PAPARIAN: Aye.

7 BOARD SECRETARY WADDELL: Peace.

8 BOARD MEMBER PEACE: I'll hold.

9 BOARD SECRETARY WADDELL: Washington.

10 BOARD MEMBER WASHINGTON: Abstain.

11 BOARD SECRETARY WADDELL: And

12 Moulton-Patterson.

13 BOARD CHAIR MOULTON-PATTERSON: Aye. Call 'em
14 again, the ones that didn't vote.

15 BOARD SECRETARY WADDELL: Okay. Jones.

16 BOARD MEMBER JONES: Madam Chair, before this
17 next straw vote let me ask you a question.

18 Mr. Washington, and this is in the spirit of
19 compromise. Mr. Washington, I think two other things
20 need to be added and I'm willing to look at some
21 tonnage.

22 It was brought up, I think it goes with what
23 Mr. Paparian was talking about when he was talking about
24 people that were violating the tonnage things, did we, I
25 guess we never put anything in there, but we ought to

1 have something about the three strikes and then you move
2 up.

3 And we also ought to talk about either scale
4 receipts or scales. I don't care that they have a
5 scale, they ought to be able to have gone over a scale
6 somewhere, because the only way we can regulate this is
7 through a scale.

8 Are you okay with that?

9 BOARD CHAIR MOULTON-PATTERSON: Yeah, I have no
10 problem with that at all.

11 BOARD MEMBER JONES: They either install a
12 scale or they have a scale receipt.

13 BOARD CHAIR MOULTON-PATTERSON: Okay.

14 BOARD MEMBER JONES: And then let me ask you a
15 question. If Mr. Paparian was at 175 and what was it,
16 30?

17 BOARD MEMBER PAPARIAN: I was at 300, I came
18 down to 175. I don't like 175, I don't think it's the
19 right number, I think it's too low of a number, I think
20 it should be higher than 175. I think it should be 250,
21 300. I think it should be up there in that range.
22 That's where I'm at.

23 BOARD MEMBER JONES: But the proposal is 175,
24 40 percent.

25 BOARD MEMBER PAPARIAN: The proposal is 175, I

1 voted yes on that proposal, but I think it ought to be
2 higher.

3 BOARD MEMBER JONES: With the scales?

4 BOARD CHAIR MOULTON-PATTERSON: Yes. Did you
5 have a comment, Mr. Medina, before we go back to the
6 votes?

7 BOARD MEMBER MEDINA: I do, Madam Chair, and
8 that's that I support the 175 with three strikes, the
9 scale receipts, and a two year phase-in with a six month
10 extension.

11 BOARD CHAIR MOULTON-PATTERSON: What's the
12 three strikes again?

13 BOARD MEMBER JONES: If they're continually
14 violating that to stay into a no tier or a low tier,
15 that they've got to move up to the tier that they
16 ultimately belong in.

17 BOARD CHAIR MOULTON-PATTERSON: Okay. So we'll
18 take that as an aye vote, Mr. Medina.

19 Ms. Peace.

20 BOARD MEMBER PEACE: If, if there's going to be
21 fines for doing things you're not supposed to be doing.

22 BOARD MEMBER JONES: Not fines. Not fines.

23 BOARD MEMBER PEACE: I thought you were talking
24 fines, the three strikes. What are the three strikes?

25 BOARD MEMBER JONES: Can I answer?

1 BOARD CHAIR MOULTON-PATTERSON: I thought we
2 already established that there were going to be fines.

3 BOARD MEMBER JONES: Did we say fines?

4 BOARD CHAIR MOULTON-PATTERSON: Uh-huh. Didn't
5 we talk about fines, Mr. de Bie?

6 MR. DE BIE: We did talk about fines. I was
7 trying to talk you out of fines, but you did talk about
8 fines.

9 The three strikes, to staff's understanding, is
10 that if you're qualified for a registration tier and
11 you're found that you're over tonnage or you're doing
12 something that would put you in a full, you're only
13 allowed to do that three times.

14 BOARD CHAIR MOULTON-PATTERSON: And it was
15 pointed out that it would be fines across the board, not
16 just C&D, is that right?

17 MR. DE BIE: Right, but we can't do that in
18 this particular package.

19 BOARD CHAIR MOULTON-PATTERSON: I understand
20 that, but we'll just get it on the record.

21 Ms. Peace, did you have a comment?

22 So Mr. Medina?

23 BOARD MEMBER MEDINA: Just to clarify. On the
24 three strikes, three strikes and you get a cease and
25 desist order until you get a full solid waste permit?

1 BOARD CHAIR MOULTON-PATTERSON: I have no
2 problem with that.

3 BOARD MEMBER MEDINA: Is that what is on the
4 table?

5 MR. DE BIE: That's staff's understanding is
6 that you would cease and desist until you got the proper
7 permit.

8 BOARD MEMBER JONES: I'll support that.

9 BOARD CHAIR MOULTON-PATTERSON: Okay. So we
10 have an eye from you, Mr. Jones?

11 BOARD MEMBER JONES: Yup.

12 BOARD CHAIR MOULTON-PATTERSON: Okay. Who
13 didn't we get? Washington and Peace.

14 I better not call the roll.

15 Ms. Waddell, would you --

16 BOARD SECRETARY WADDELL: Why don't we, can we
17 start over?

18 BOARD CHAIR MOULTON-PATTERSON: Okay.

19 BOARD SECRETARY WADDELL: Can we just do that?

20 BOARD CHAIR MOULTON-PATTERSON: I just hope
21 nobody changes their votes.

22 BOARD SECRETARY WADDELL: Oh, no.

23 BOARD CHAIR MOULTON-PATTERSON: Yeah.

24 BOARD SECRETARY WADDELL: We're only missing
25 Washington.

1 BOARD CHAIR MOULTON-PATTERSON: And Peace

2 hasn't --

3 BOARD SECRETARY WADDELL: Peace then.

4 BOARD MEMBER PEACE: Aye.

5 BOARD SECRETARY WADDELL: Washington.

6 BOARD MEMBER WASHINGTON: Aye.

7 BOARD CHAIR MOULTON-PATTERSON: Okay. I want
8 to say thank you so much to our staff, you've worked so
9 hard on this. This will go out. We, this will go out
10 for fifteen days, and it will be back on to approve at
11 an emergency meeting on April 9th.

12 Is there anything else I need to say as far
13 as --

14 MR. DE BIE: If I could propose something while
15 the Board members are all here. There are a lot of
16 changes, we, staff tried to absorb them all, I think we
17 did a good job. Many of them came from Mr. Jones. So
18 at a minimum we would expect to write up something, and
19 we'd share that with Mr. Jones to see if it is
20 consistent.

21 BOARD CHAIR MOULTON-PATTERSON: Everybody.

22 MR. DE BIE: Well, initially with Mr. Jones to
23 see if it's consistent with what he's proposing. And
24 then if he says yes, that's what he was proposing, then
25 we would then share that language with everyone else.

1 BOARD CHAIR MOULTON-PATTERSON: No. No. No.

2 I mean I feel very strongly, every Board, every council

3 I've ever been on --

4 BOARD MEMBER WASHINGTON: Everything.

5 BOARD CHAIR MOULTON-PATTERSON: -- if one

6 person asks for something it should be given to every

7 Board member, so I mean.

8 MR. DE BIE: Let, I think I'm being

9 misunderstood slightly. It was just while we're

10 crafting the language to try to better understand the

11 direction from the Board --

12 BOARD CHAIR MOULTON-PATTERSON: Why would it

13 hurt that we saw it? I mean let's not muddy the waters

14 now.

15 MR. DE BIE: Certainly we will share the first

16 draft to the last draft with all Board members if that's

17 your desire.

18 BOARD CHAIR MOULTON-PATTERSON: I mean you

19 don't have a problem with us seeing it, do you, Mr.

20 Jones?

21 BOARD MEMBER JONES: You didn't hear me saying

22 anything.

23 MR. DE BIE: I'm sorry, I was just trying to

24 facilitate the process so that we could make that

25 timeline.

1 BOARD CHAIR MOULTON-PATTERSON: I appreciate
2 it. The time limit is very important, and I don't mean
3 to be impatient or flippant, I'm just tired.

4 And I think we have everything. I just want to
5 ask legal one more time. We have everything that we
6 need to have said, and everyone can be here on April 9th
7 in the afternoon? Right? Okay.

8 This -- oh, I guess we have to offer a public
9 comment period at the end of each meeting. So I'm
10 saying it once twice, three times.

11 Public comments?

12 CHIEF LEGAL COUNSEL TOBIAS: Actually, Madam
13 Chair, your last day is tomorrow so you don't have to
14 offer it now.

15 BOARD CHAIR MOULTON-PATTERSON: Oh, that's
16 right. Gee, it seems like we've been here so long.

17 Okay. Mr. Paparian.

18 BOARD MEMBER PAPARIAN: Ms. Tobias, the CEQA
19 thing we vote on on April 9th also then, we don't need
20 to vote on that today.

21 CHIEF LEGAL COUNSEL TOBIAS: No, not today.

22 BOARD MEMBER PAPARIAN: Okay. Thank you.

23 BOARD CHAIR MOULTON-PATTERSON: Okay. So we
24 are, we will be -- I'm sorry, we will be returning for
25 this meeting for a closed session, Board only, at 9:30

1 tomorrow.

2 At 1:30 -- or is it 1:45? 1:30 we hear the
3 Bradley item. And that's number, what number is
4 Bradley?

5 EXECUTIVE DIRECTOR LEARY: 31.

6 BOARD CHAIR MOULTON-PATTERSON: 31.

7 Thank you all for your patience.

8 (Thereupon the foregoing was concluded
9 at 5:07 p.m.)

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